

ORDINANCE NUMBER O- 21477 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 21 2022

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 141.0302 AND 141.0318, ALL RELATING TO ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS REQUIRED FOR CERTIFICATION OF THE MOVABLE TINY HOUSES AMENDMENTS TO THE COMPANION UNIT AND JUNIOR UNIT REGULATIONS AND THE HOUSING LEGISLATION CODE UPDATE TO THE MUNICIPAL CODE AND LOCAL COASTAL PROGRAM.

WHEREAS, on August 4, 2020, the Council of the City of San Diego (Council) adopted the Movable Tiny Houses amendments to the Companion Unit and Junior Unit Regulations of the Land Development Code pursuant to Ordinance O-21223 (Movable Tiny Houses Ordinance); and

WHEREAS, on October 27, 2020, the Council adopted the Housing Legislation Code Update to the Land Development Code pursuant to Ordinance O-21254 (Housing Legislation Update Ordinance); and

WHEREAS, the Movable Tiny Houses Ordinance and Housing Legislation Update Ordinance amended the Land Development Code, which serves as the Implementation Plan to the City's certified Local Coastal Program (LCP); and

WHEREAS, as an amendment to the City's certified LCP, the Movable Tiny Houses Ordinance and Housing Legislation Updated Ordinance must be certified by the California Coastal Commission (Commission) as consistent with Coastal Act policies prior to being effective in the Coastal Overlay Zone; and

WHEREAS, on December 17, 2021, the Commission considered certification of the Movable Tiny Houses Ordinance and the Housing Legislation Update Ordinance; and

WHEREAS, the Commission approved the Movable Tiny Houses Ordinance and Housing Legislation Update Ordinance with modifications related to parking requirements for Moveable Tiny Houses, Accessory Dwelling Units (ADU), and Junior Accessory Dwelling Units (JADU) located on premises located within the Beach Impact Area, but outside of a Transit Priority Area, additional requirements regarding assumption of risk and prohibition of shoreline protection for Movable Tiny Houses, ADUs, and JADUs on premises located within an area of future sea level rise but outside of a Special Flood Hazard Area, and additional regulations related to ADUs and JADUs and their permitting within the Coastal Overlay Zone; and

WHEREAS, the City desires to accept the Commission's modifications; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 7 of the San Diego Municipal Code is amended by amending sections 126.0704, 126.0707, and 126.0708 to read as follows:

**§126.0704 Exemptions from a Coastal Development Permit**

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

- (a) Improvements to existing *structures* are exempt, except if the improvements involve any of the following:
  - (1) through (8) [No change in text.]
  - (9) *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* that are not completely contained in the existing primary *structure*

or include increases in habitable area or include conversion of nonhabitable space. Such *ADUs* and *JADUs* are considered self-contained residential units within new construction and are therefore ineligible for an exemption.

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

**§126.0707 Decision Process for a Coastal Development Permit**

(a) A decision on an application for a City-issued Coastal Development Permit in the non-*appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two, except that a decision on an application for a *capital improvement program project* or *public project* in the non-*appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c). The decision may be appealed to the Planning Commission in accordance with Section 112.0504.

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

(d) Except for Coastal Development Permits issued in accordance with Section 126.0707(g), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent

development permits. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

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

(g) A decision on an application for a City-issued Coastal Development Permit for an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* in the non-*appealable area* of the Coastal Overlay Zone shall be made as follows:

(1) The Coastal Development Permit shall be issued as a Building Permit in accordance with Process One as specified in Section 112.0502 and Chapter 12, Article 9, Division 2. Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply.

(2) If the proposed coastal development involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

**§126.0708 Findings for Coastal Development Permit Approval**

Except for Coastal Development Permits issued in accordance with Section 126.0707(g), an application for a Coastal Development Permit may be approved



or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied.

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

(c) The following administrative *findings* shall be made for Coastal Development Permits required for *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* permitted in accordance with Section 126.0707(g) in order to ensure that the *development* conforms to the Local Coastal Program:

- (1) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*.
- (2) The proposed *coastal development* permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan* and Chapter 13, Article 2, Division 4.
- (3) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.

- (4) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).

Section 2. That Chapter 14, Article 1, Division 3 of the San Diego Municipal Code is amended by amending sections 143.0302 and 141.0318 to read as follows:

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

Section 141.0302 provides for the construction of *Accessory Dwelling Units (ADUs)* and *Junior Accessory Dwelling Units (JADUs)*, consistent with the requirements of state law, and is intended to encourage the construction of *ADUs* and *JADUs* through several local regulatory provisions, including allowing encroachment into the interior side *yard* and rear *yard setbacks* up to the *property line*, eliminating parking requirements for *ADUs* and *JADUs*, and providing an affordable housing bonus of one additional *ADU* for every deed-restricted affordable *ADU* constructed on the *premises*, as specified in the regulations below. *ADUs* are permitted in all zones allowing residential uses and *JADUs* are permitted in all *single dwelling unit* zones by-right as a limited use decided in accordance with Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The following regulations are applicable to both *ADUs* and *JADUs*:
- (1) [No change in text.]
  - (2) *Development* Regulations
    - (A) through (C) [No change in text.]
    - (D) The following *setback* allowances are applicable:

(i) Conversion of existing *structure* to an *ADU* or *JADU*. No *setback* is required for an existing *dwelling unit* or *accessory structure* that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing *structure* may continue to observe the same *setbacks* as the *structure* it replaced. An existing *structure* may not be converted to or reconstructed as an *ADU* or *JADU* if the *structure* does not conform to the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, or the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

(ii) [No change in text.]

(E) [No change in text.]

(F) Within the Coastal Overlay Zone, the following regulations apply to *ADUs* or *JADUs* constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Sea Level Rise Policy Guidance

adopted by the California Coastal Commission, as it applies to residential *development*:

- (i) The *ADU* or *JADU* shall comply with the regulations in Section 143.0146(c) and, if applicable, Section 143.0146(g). The *base flood elevation* utilized, and the applicability of Section 143.0146(g), shall be based on the *FIRM* Zone of the *Special Flood Hazard Area* in closest proximity to the *premises* on which the *ADU* or *JADU* is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.
- (ii) Hard shoreline armoring shall not be constructed to protect an *ADU* or *JADU* from the effects of coastal hazards, including, but not limited to, sea level rise.
- (iii) The *record owner* of the *ADU* or *JADU* shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions:
  - (1) that the *ADU* or *JADU* is located in an area



of future sea level rise that may become hazardous in the future; (2) that sea level rise could render it difficult or impossible to provide services to the site; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development* approval does not permit encroachment onto public trust land; 4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified *Local Coastal Program*; (5) that the owner waives any rights under Coastal Act Section 30235 and related *Local Coastal Program* policies to hard shoreline armoring to protect the *ADU* or *JADU*; and (6) that the *structure* may be required to be removed or relocated and the site restored if it becomes unsafe.

- (iv) The record owner of the *ADU* or *JADU* shall provide notice to all occupants of the *ADU* or *JADU* of the acknowledgements and provisions specified in Section 141.0302(a)(2)(F)(ii) and (iii).

(3) Parking Regulations

(A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs* and *JADUs* except as specified in Section 141.0302(a)(3)(B).

(B) When an *ADU* or *JADU* is proposed on a *premises* located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, one *off-street parking spaces* located consistent with Section 141.0302(a)(3)(D) shall be required per *ADU* or *JADU*, unless any of the following apply:

(i) The *ADU* or *JADU* is 500 square feet or less;

(ii) The *premises* is located within a *historical district* that is a *designated historical resource*;

(iii) The *ADU* or *JADU* is attached to the proposed or existing primary *dwelling unit* or *accessory structure*;

(iv) The *premises* is located within a residential permit parking district;

(v) There is a car share vehicle located within one block of the *premises*.

(C) When a garage, carport, or covered parking *structure* is demolished in conjunction with the construction of an *ADU* or *JADU*, or converted to an *ADU* or *JADU*, replacement of

those *off-street parking spaces* is not required unless the *premises* is located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, in which case the parking shall be replaced in a location consistent with Section 141.0302(a)(3)(D).

(D) If *off-street parking spaces* are required in accordance with Section 141.0302(a)(3)(B) or 141.0302(a)(3)(C), or if the applicant chooses to provide *off-street parking spaces* for *ADUs* and/or *JADUs* located on the *premises*, those spaces shall comply with the following:

- (i) *Off-street parking spaces* may be located in any configuration, may be within the *setback* areas, and may include tandem spaces or mechanical lifts.
- (ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*.

(4) [No change in text.]

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

**§141.0318 Movable Tiny Houses**

*Movable tiny houses* are permitted as a limited use in accordance with Process One in the zones indicated with an “L” in the Use Regulations Tables in

Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations.

(a) *Development Regulations*

(1) A *movable tiny house* shall be:

(A) [No change in text.]

(B) exempt from parking regulations unless the *movable tiny house* is located in the Beach Impact Area of the Parking Impact Overlay Zone but outside of a *transit priority area*, in which case one *off-street parking space* shall be required if there is already an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* present on the same *premises*.

(2) through (11) [No change in text.]

(12) Within the Coastal Overlay Zone, the following regulations apply to *movable tiny houses* constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Sea Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential *development*:

(A) Hard shoreline armoring shall not be constructed to protect a *movable tiny house* from the effects of coastal hazards, including, but not limited to, sea level rise.



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

(C) The *record owner* of the *movable tiny house* shall provide notice to all occupants of the *movable tiny house* of the acknowledgements and provisions specified in Section 141.0318(a)(12)(A) and (B).

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

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this Ordinance shall not take effect until the date the California Coastal Commission unconditionally certifies these provisions as a Local Coastal Program amendment, or until the thirtieth day from and after its final passage, whichever occurs later.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer  
Corrine L. Neuffer  
Chief Deputy City Attorney

CLN:cm  
05/27/2022  
Or.Dept: Planning  
Doc. No. 2926862\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUL 12 2022.

ELIZABETH S. MALAND  
City Clerk

By  \_\_\_\_\_  
Deputy City Clerk

Approved: 7/21/22  
\_\_\_\_\_  
(date)

 \_\_\_\_\_  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
\_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

(NOTE: See attached memo.)

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 236-6220**

**DATE:** January 4, 2023

**TO:** Gil Sanchez, Associate Management Analyst  
Matthew Hilario, Legislative Recorder II

**FROM:** City Attorney

**SUBJECT:** Reconciliation Memo for Accessory Dwelling Unit & Junior Accessory Dwelling Unit Regulations for Ordinances O-21254, O-21439 & O-21477

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This memo is in response to an email I received from the Planning Department requesting a reconciliation memo from our Office to you, of the above-titled ordinances and the amendments to San Diego Municipal Code section 141.0302. Since the changes to the ordinances are effective law today and no correction is needed to the ordinances, we are providing this memo instead.

**ACCESSORY DWELLING UNIT (ADU) AND JUNIOR ACCESSORY DWELLING UNIT (JADU) REGULATIONS RECONCILIATION OF O-21254, O-21439 & O-21477**

**Timeline:**

- October 30, 2020: ADU and JADU regulations were comprehensively overhauled as part of the Housing Legislation Code Update under O-21254.
- March 11, 2022: ADU and JADU regulations were amended as part of the Housing Action Package 1.0 under O-21439.
- July 21, 2022: City Council adopted California Coastal Commission (CCC) modifications to the Housing Legislation Code Update under a new ordinance, O-21477. The CCC modifications could not include the ADU/JADU regulations as amended by the Housing Action Package 1.0 (O-21439) because the Coastal Commission had not yet begun review of that amendment (and as of this writing have still not begun review of HAP 1.0.)

**Reconciliation:**

Based on the review by the Planning Department and our Office, renumbering is required to reconcile all three ordinances so that the original ADU/JADU regulations (O-21254) as modified by the Coastal Commission (O-21477) and amended by the City Council (O-21439) are all reflected in the ADU and JADU regulations (in San Diego Municipal Code section 141.0302).



- **Black** text is the baseline ADU/JADU regulations adopted under ordinance O-21254 (Housing Legislation Code Update).
- Edits in **red** reflect changes made to the ADU/JADU regulations under ordinance O-21439 (Housing Action Package 1.0).
- Edits in **green** reflect the CCC modifications to the Housing Legislation Code Update, adopted by the City Council under ordinance O-21477.

The black and green language are in effect in the Coastal Zone. The red language is not yet in effect in the Coastal Zone because it was adopted with the Housing Action Package 1.0 (O-21439), which has not yet been certified by the CCC.

A clean, reconciled version of the ADU & JADU regulations is provided at the end of this document.

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

Section 141.0302 provides for the construction of *Accessory Dwelling Units (ADUs)* and *Junior Accessory Dwelling Units (JADUs)* consistent with the requirements of state law, and is intended to encourage the construction of *ADUs* and *JADUs* through several local regulatory provisions, including **allowing encroachment into the interior side yard and rear yard setbacks up to the property line**, eliminating parking requirements for *ADUs* and *JADUs*, and providing an affordable housing bonus of one additional *ADU* for every deed-restricted affordable *ADU* constructed on the *premises*, as specified in the regulations below. *ADUs* are permitted in all zones allowing residential uses and *JADUs* are permitted in all ~~single dwelling unit z~~**Single Dwelling Unit Zones** by-right as a limited use decided in accordance with a Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

**(a)    The following definitions apply to this section:**

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

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

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

(1) Use Regulations

- (A) One *ADU* and one *JADU* are permitted on a *premises* located within a ~~*single dwelling unit*~~ Single Dwelling Unit Zone with an existing or proposed *single dwelling unit*.
- (B) An *ADU* or *JADU* shall not be used for a rental term of less than 31 consecutive days.
- (C) Guest quarters and non-habitable *accessory structures* shall be permitted in addition to *ADUs* and *JADUs*.
- ~~(D) An *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* shall not be permitted to be constructed on any *premises* that has utilized the provisions of Chapter 14, Article 3, Division 13, Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones, except as provided in Section 143.1305(c)(1).~~

(2) *Development* Regulations for *ADUs*

- (A) A minimum *lot* size is not required for the construction of an *ADU* or *JADU*.
- (B) *ADUs* and *JADUs* are not subject to the *density* limitations for the *premises*.
- (C) The *gross floor area* of an *ADU* and *JADU* shall be included in the *floor area ratio* for the *premises*.
- ~~(D) The following *setback* allowances are applicable:
  - (i) ~~Conversion of existing *structure* to an *ADU* or *JADU*. No *setback* is required for an existing *dwelling unit* or *accessory structure* that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing *structure* may continue to observe the same *setbacks* as the *structure* it replaced.~~~~



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

An ADU or JADU that is converted from an existing dwelling unit or accessory structure or is constructed in the same location and within the same building envelope as an existing dwelling unit or accessory structure may continue to observe the same setbacks as the existing dwelling unit or accessory structure. An existing structure may not be converted or reconstructed as an ADU or JADU if the structure does not conform to the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, or the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.<sup>1</sup>

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

- (i) One-story ADUs or JADUs with a structure height 16 feet or less may observe a zero-foot setback at the interior side yard and rear yard.
- (ii) One-story ADUs or JADUs with a structure height that exceeds 16 feet and multi-story ADU or JADU structures may observe zero-foot interior side yard and rear yard setbacks, unless the side or rear property line abuts another premises that is residential zoned or developed with exclusively residential uses, in which case a 4-foot setback shall apply.

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

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<sup>1</sup> Under Ordinance O-21477 this was added to section 143.0302(a)(2)(D)(i). The language of the section it was added to is still present, it has just been renumbered to 143.0302(b)(2)(D).

(i) If construction of an ADU or JADU that would bring the number of ADUs or JADUs on the premises to a total of two or more is proposed, two trees shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises. If planting of a new tree is required to comply with this section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.

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

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

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

(I) Within the Coastal Overlay Zone, the following regulations apply to ADUs or JADUs constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Seal Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential development<sup>2</sup>:

(i) The ADU or JADU shall comply with the regulations in Section 143.0146(c) and, if applicable, Section 143.0146(g). The base flood elevation utilized, and the applicability of Section

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<sup>2</sup> Under Ordinance O-21477 this was added as section 143.0302(a)(2)(F), which was the next available numbering in the series under 143.0302(a)(2). It should be renumbered to 143.0302(b)(2)(I) to reflect the renumbering of the section and the next available numbering in the series.



143.0146(g), shall be based on the *FIRM Zone of the Special Flood Hazard Area* in closest proximity to the *premises* on which the *ADU* or *JADU* is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.

- (ii) Hard shoreline armoring shall not be constructed to protect an *ADU* or *JADU* from the effects of coastal hazards, including, but not limited to, sea level rise.
- (iii) The *record owner* of the *ADU* or *JADU* shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions: (1) that the *ADU* or *JADU* is located in an area of future sea level rise that may become hazardous in the future; (2) that sea level rise could render it difficult or impossible to provide services to the site; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development approval* does not permit encroachment onto public trust land; (4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified *Local Coastal Program*; (5) that the owner waives any rights under Coastal Action Section 30235 and related *Local Coastal Program* policies to hard shoreline armoring to protect the *ADU* or *JADU*; and (6) that the *structure* may be required to be removed or relocated and the site restored if it becomes unsafe.
- (iv) The record owner of the *ADU* or *JADU*<sup>3</sup> shall provide notice to all occupants of the *ADU* or *JADU* of the acknowledgements and provisions specified in Section 141.0302(b)(2)(I)(ii) and (iii)<sup>4</sup>.

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<sup>3</sup> The terms “record owner”, “ADU” and “JADU” were not italicized, which was an error, they should be italicized because they are defined terms.

<sup>4</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(2)(F); however, the section has been renumbered and needs to be corrected to read “141.0302(b)(2)(I).”

(3) Parking Regulations

(A) No on-street parking spaces or *off-street parking spaces* are required for ADUs and JADUs except as specified in Section 141.0302(b)(3)(B)<sup>5</sup>. If the *applicant* chooses to provide *off-street parking spaces* for ADUs and/or JADUs located on the *premises*, those spaces shall comply with the following:

(i) ~~Off-street parking spaces may be located in any configuration, may be within the setback areas, and may include tandem spaces or mechanical lifts.~~

(ii) ~~Off-street parking space(s) shall be located within hardscape areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the lot.~~

(B) When an garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or JADU, or converted to an ADU or JADU, replacement of those is proposed on a premises located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, one off-street parking spaces is not located consistent with Section 141.0302(b)(3)(D)<sup>6</sup> shall be required per ADU or JADU, unless any of the following apply:

(i) The ADU or JADU is 500 square feet or less;

(ii) The premises is located within a historical district that is a designated historical resource;

(iii) The ADU or JADU is attached to the proposed or existing primary dwelling unit or accessory structure;

(iv) The premises is located with a residential permit parking district;

<sup>5</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(3)(B); however, the section has been renumbered and needs to be corrected to read "141.0302(b)(3)(B)."

<sup>6</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(3)(B); however, the section has been renumbered and needs to be corrected to read "141.0302(b)(3)(B)."



- (v) There is a car share vehicle located within one block of the premises.
  - (C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or JADU, or converted to an ADU or JADU, replacement of those off-street parking spaces is not required unless the premises is located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, in which case the parking shall be replaced in a location consistent with Section 141.0302(b)(3)(D)<sup>7</sup>.
  - (D) If off-street parking spaces are required in accordance with Section 141.0302(b)(3)(B)<sup>8</sup> or 141.0302(b)(3)(C)<sup>9</sup>, or if the applicant chooses to provide off-street parking spaces for ADUs and/or JADUs located on the premises, those spaces shall comply with the following:
    - (i) Off-street parking spaces may be located in any configuration, may be within the setback areas, and may include tandem spaces or mechanical lifts.
    - (ii) Off-street parking spaces shall be located within hardscape areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the lot.
  - (E) Notwithstanding 141.0302(b)(2)(H), if the construction of an ADU or JADU causes an existing driveway curb cut to no longer comply with the dimensions required in Table 142-05K of Section 142.0560 for an off-street parking space, the driveway shall be closed to the satisfaction of the City Engineer.<sup>10</sup>
- (4) Development Impact Fees for ADUs and JADUs shall comply with Section 142.0640(b).

<sup>7</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(3)(D); however, the section has been renumbered and needs to be corrected to read “141.0302(b)(3)(D).”

<sup>8</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(3)(B); however, the section has been renumbered and needs to be corrected to read “141.0302(b)(3)(B).”

<sup>9</sup> Under Ordinance O-21477 referenced section was 141.0302(a)(3)(C); however, the section has been renumbered and needs to be corrected to read “141.0302(b)(3)(C).”

<sup>10</sup> Under Ordinance O-21439 this section was numbered as 141.0302(b)(3)(C); however, in light of O-21477, it is recommended that it be renumbered to 141.0302(b)(3)(E).

- (bc) In addition to the requirements in Section 141.0302(a), the following additional regulations are applicable to *ADUs*:
- (1) Use Regulations
    - (A) The *record owner* is not required to live on the same *premises* as the *ADU*.
    - (B) The *ADU* may not be sold or conveyed separately from the primary *dwelling unit* unless all of the following apply:
      - (i) The *ADU* was built or developed by a qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(i), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.
      - (ii) There is an enforceable restriction on the use of the *premises* on which the *ADU* is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(ii), a qualified buyer means *very low income, low income, median income, or moderate income* households, as specified in Table 141-03A.
      - (iii) The *lot* where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes an allocation to each qualified buyer an undivided, unequal interest in the *lot* based on the size of the *ADU* each qualified buyer occupies; a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property; a requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and affordability

restrictions on the sale and conveyance of the property that ensure the property will be preserved for *very low income, low income, median income* or *moderate income* households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.

- (iv) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded with the County. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
- (v) If requested by a utility providing service to the primary residence, the *ADU* has a separate water, sewer, or electrical connection to that utility.

(2) *Development* Regulations for ADUs

- (A) *ADUs* shall be permitted in all zones allowing residential uses, consistent with the Use Table of the applicable base zone.
- (B) ~~No more than one~~ *ADU* shall be permitted in a Single Dwelling Unit Zone on a *premises* with an existing or proposed *single dwelling unit*.
- (C) ~~*ADUs* located on a *premises*~~ located in a Single Dwelling Unit Zone with an existing *multiple dwelling unit*, or a *premises* located in a Multiple Dwelling Unit Zone with an existing or proposed ~~*multiple dwelling unit*~~, *ADUs* shall be permitted as follows:
  - (i) ~~The number of *ADUs* permitted within the habitable area of an existing *multiple dwelling unit structure* is limited to 25 percent of the total number of existing *dwelling units* in the *structure*, but in no case shall be less than 1 *ADU*; and Two *ADUs* that are attached to and/or detached from an existing or proposed *structure* are permitted; and~~



- (ii) Two ADUs that are detached from an existing multiple dwelling unit structure are permitted; The number of ADUs permitted within the habitable area of an existing dwelling unit structure is limited to 25 percent of the total number of existing dwelling units in the structure, but in no case shall be less than 1 ADU; and
  - (iii) There is no limit on the number of ADUs permitted within the portions of existing *multiple dwelling unit structures* and accessory structures that are not used as livable space, including, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each ADU complies with state building standards for *dwelling units*.
- (D) An ADU with a *gross floor area* of 800 square feet shall be permitted on a *premises* with an existing or proposed *dwelling unit* regardless of maximum *lot coverage*, maximum *floor area ratio*, and minimum open space requirements. The development shall comply with the floor area ratio of the underlying base zone unless the development incorporates the existing structure that exceeds the allowable floor area ratio or is under the allowable floor area ratio floor area ratio by less than 800 square feet, in which case an ADU that does not exceed 800 square feet shall be permitted.
- (E) An ADU may be attached to, located within, or detached from an existing or proposed primary *dwelling unit*, including garages and habitable or non-habitable *accessory structures*.
- (F) The minimum *gross floor area* of an ADU shall not be less than 150 square feet. The maximum *gross floor area* of an ADU shall not exceed 1,200 square feet. An ADU constructed within an existing *dwelling unit* or *accessory structure* may construct an additional 150 square feet for ingress and egress only.
- (G) *ADU Bonus for Affordable ADUs*. One additional ADU shall be permitted for every ADU on the *premises* that is affordable to *very low income*, *low income*, and *moderate*

*income* households for a period of not less than 15 years guaranteed through a written agreement, and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.

- (i) There is no limit on the number of bonus *ADUs* within a *transit priority area*.
- (ii) One bonus *ADU* is permitted outside a *transit priority area*.
- (iii) For *ADUs* to be counted as affordable and meet the requirements of this Section, the qualifying criteria in Table 141-03A shall be met.

**Table 141-03A  
 Qualifying Criteria for Affordable *ADU* Bonus**

	<b>Rental <i>ADUs</i></b>	<b>For-Sale <i>ADUs</i><sup>1</sup></b>
	<b>shall be affordable, including an allowance for utilities, at a rent that does not exceed:</b>	<b>shall be affordable at an affordable housing cost that does not exceed:</b>
<b><i>Very Low Income households</i></b>	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for the unit.
<b><i>Low Income households</i></b>	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
<b><i>Moderate Income households</i></b>	30 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.

**Footnotes for Table 141-03A**

- (1) For-sale *ADUs* are subject to the requirements of Section 141.0302(c)(1)(B)<sup>11</sup>

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

- (1) Use Regulations

- (A) The *record owner* is required to live on the same *premises* as the *JADU*.
- (B) The *JADU* may not be sold or conveyed separately from the primary *dwelling unit*.
- (C) Before a Building Permit may be issued for a *JADU*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: that the *JADU* may not be sold or conveyed separately from the primary *dwelling unit*; the agreement may be enforced against future purchasers; and the *record owner* shall reside on the *premises*. The City will submit the agreement to the County Recorder for recordation. The agreement shall run with the land for the life of the *JADU*.

- (2) *Development* Regulations

- (A) One *JADU* is permitted on a *premises* located within a ~~single dwelling unit z~~ Single Dwelling Unit Zone with an existing or proposed primary *single dwelling unit*.
- (B) A *JADU* of not less than 150 square feet and not more than 500 square feet is permitted within an existing or proposed *single dwelling unit*, an attached or detached garage, or *ADU*. A *JADU* constructed within an existing *structure* may construct an additional 150 square feet for ingress and egress only.

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<sup>11</sup> This should have been renumbered from 141.0302(b)(1)(B) to 141.0302(c)(1)(B) with O-21439 and was missed.



- (C) A *JADU* shall have a separate exterior entry from the primary *dwelling unit* and shall provide, a *kitchen* or an *efficiency kitchen*.

We recommend Municipal Code section 142.0302 read as follows (clean and reconciled version):

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

Section 141.0302 provides for the construction of *Accessory Dwelling Units (ADUs)* and *Junior Accessory Dwelling Units (JADUs)* consistent with the requirements of state law, and is intended to encourage the construction of *ADUs* and *JADUs* through several local regulatory provisions, including eliminating parking requirements for *ADUs* and *JADUs*, and providing an affordable housing bonus of one additional *ADU* for every deed-restricted affordable *ADU* constructed on the *premises*, as specified in the regulations below. *ADUs* are permitted in all zones allowing residential uses and *JADUs* are permitted in all Single Dwelling Unit Zones by-right as a limited use decided in accordance with a Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The following definitions apply to this section:
  - (1) Single Dwelling Unit Zone means a zone that permits *single dwelling units* but does not permit *multiple dwelling units*.
  - (2) Multiple Dwelling Unit Zone means a zone that permits *multiple dwelling units*.
- (b) The following regulations are applicable to *ADUs* and *JADUs*:
  - (1) Use Regulations
    - (A) One *ADU* and one *JADU* are permitted on a *premises* located within a Single Dwelling Unit Zone with an existing or proposed *single dwelling unit*.
    - (B) An *ADU* or *JADU* shall not be used for a rental term of less than 31 consecutive days.

- (C) Guest quarters and non-habitable *accessory structures* shall be permitted in addition to *ADUs* and *JADUs*.
- (D) An *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* shall not be permitted to be constructed on any *premises* that has utilized the provisions of Chapter 14, Article 3, Division 13, Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones, except as provided in Section 143.1305(c)(1).

(2) *Development* Regulations

- (A) A minimum *lot* size is not required for the construction of an *ADU* or *JADU*.
- (B) *ADUs* and *JADUs* are not subject to the *density* limitations for the *premises*.
- (C) The *gross floor area* of an *ADU* and *JADU* shall be included in the *floor area ratio* for the *premises*.
- (D) An *ADU* or *JADU* that is converted from an existing *dwelling unit* or *accessory structure* or is constructed in the same location and within the same *building envelope* as an existing *dwelling unit* or *accessory structure* may continue to observe the same *setbacks* as the existing *dwelling unit* or *accessory structure*. An existing *structure* may not be converted or reconstructed as an *ADU* or *JADU* if the *structure* does not conform to the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, or the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.
- (E) *ADU* and *JADU structures* must comply with the front *yard* and *street side yard setbacks* of the base zone. Interior side *yard* and rear *yard setbacks* for new *ADU* and *JADU structures* shall be provided as follows:
  - (i) One-story *ADUs* or *JADUs* with a *structure height* 16 feet or less may observe a zero-foot *setback* at the interior side *yard* and rear *yard*.



- (ii) One-story *ADUs* or *JADUs* with a *structure height* that exceeds 16 feet and multi-story *ADU* or *JADU structures* may observe zero-foot interior side yard and rear yard setbacks, unless the side or rear property line abuts another premises that is residential zoned or developed with exclusively residential uses, in which case a 4-foot setback shall apply.
- (F) The following landscape regulations shall apply to the construction of an *ADU* or *JADU*:
  - (i) If construction of an *ADU* or *JADU* that would bring the number of *ADUs* or *JADUs* on the premises to a total of two or more is proposed, two trees shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises. If planting of a new tree is required to comply with this section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.
  - (ii) *ADUs* construction in accordance with Section 141.0302(c)(2)(C) shall comply with the street tree requirements in Section 142.0409(a).
- (G) *ADUs* and *JADUs* shall not be required to provide fire sprinklers if they are not required for the primary dwelling unit. When located on a premises where the primary dwelling unit is protected with an automatic fire sprinkler system in accordance with Section R313 of the California Residential Code, a *ADU* or *JADU* shall be protected with an automatic fire sprinkler system.
- (H) Construction of an *ADU* or *JADU* shall not require the correction of previously conforming conditions on the premises.
- (I) Within the Coastal Overlay Zone, the following regulations apply to *ADUs* or *JADUs* constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City

Manager based on the Seal Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential *development*:

- (i) The *ADU* or *JADU* shall comply with the regulations in Section 143.0146(c) and, if applicable, Section 143.0146(g). The *base flood elevation* utilized, and the applicability of Section 143.0146(g), shall be based on the *FIRM Zone* of the *Special Flood Hazard Area* in closest proximity to the *premises* on which the *ADU* or *JADU* is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.
- (ii) Hard shoreline armoring shall not be constructed to protect an *ADU* or *JADU* from the effects of coastal hazards, including, but not limited to, sea level rise.
- (iii) The *record owner* of the *ADU* or *JADU* shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions: (1) that the *ADU* or *JADU* is located in an area of future sea level rise that may become hazardous in the future; (2) that sea level rise could render it difficult or impossible to provide services to the site; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development* approval does not permit encroachment onto public trust land; (4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified *Local Coastal Program*; (5) that the owner waives any rights under Coastal Act Section 30235 and related *Local Coastal Program* policies to hard shoreline armoring to protect the *ADU* or *JADU*; and (6) that the *structure* may be required to be removed or relocated and the site restored if it becomes unsafe.

- (iv) The record owner of the ADU or JADU shall provide notice to all occupants of the *ADU* or *JADU* of the acknowledgements and provisions specified in Section 141.0302(b)(2)(I)(ii) and (iii).

(3) Parking Regulations

- (A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs* and *JADUs* except as specified in Section 141.0302(b)(3)(B).
- (B) When an *ADU* or *JADU* is proposed on a *premises* located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, one *off-street parking space* located consistent with Section 141.0302(b)(3)(D) shall be required per *ADU* or *JADU*, unless any of the following apply:
  - (i) The *ADU* or *JADU* is 500 square feet or less;
  - (ii) The *premises* is located within a *historical district* that is a *designated historical resource*;
  - (iii) The *ADU* or *JADU* is attached to the proposed or existing primary *dwelling unit* or *accessory structure*;
  - (iv) The *premises* is located with a residential permit parking district;
  - (v) There is a car share vehicle located within one block of the *premises*.
- (C) When a garage, carport, or covered parking *structure* is demolished in conjunction with the construction of an *ADU* or *JADU*, or converted to an *ADU* or *JADU*, replacement of those *off-street parking spaces* is not required unless the *premises* is located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, in which case the parking shall be replaced in a location consistent with Section 141.0302(b)(3)(D).
- (D) If *off-street parking spaces* are required in accordance with Section 141.0302(b)(3)(B) or 141.0302(b)(3)(C), or if the



applicant chooses to provide *off-street parking spaces* for *ADUs* and/or *JADUs* located on the *premises*, those spaces shall comply with the following:

- (i) *Off-street parking spaces* may be located in any configuration, may be within the *setback* areas, and may include tandem spaces or mechanical lifts.
  - (ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*.
- (E) Notwithstanding 141.0302(b)(2)(H), if the construction of an *ADU* or *JADU* causes an existing driveway curb cut to no longer comply with the dimensions required in Table 142-05K of Section 142.0560 for an *off-street parking space*, the driveway shall be closed to the satisfaction of the City Engineer.
- (4) Development Impact Fees for *ADUs* and *JADUs* shall comply with Section 142.0640(b).
- (c) In addition to the requirements in Section 141.0302(a), the following additional regulations are applicable to *ADUs*:
- (1) Use Regulations
    - (A) The *record owner* is not required to live on the same *premises* as the *ADU*.
    - (B) The *ADU* may not be sold or conveyed separately from the primary *dwelling unit* unless all of the following apply:
      - (i) The *ADU* was built or developed by a qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(i), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the California Revenue and Taxation Code for properties intended

to be sold to low-income families who participate in a special no-interest loan program.

- (ii) There is an enforceable restriction on the use of the *premises* on which the *ADU* is located pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(b)(1)(B)(ii), a qualified buyer means *very low income, low income, median income, or moderate income* households, as specified in Table 141-03A.
- (iii) The *lot* where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes an allocation to each qualified buyer an undivided, unequal interest in the *lot* based on the size of the *ADU* each qualified buyer occupies; a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property; a requirement that the qualified buyer occupy the property as the qualified buyer's principal residence; and affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for *very low income, low income, median income or moderate income* households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.
- (iv) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded with the County. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.
- (v) If requested by a utility providing service to the primary residence, the *ADU* has a separate water, sewer, or electrical connection to that utility.

(2) *Development Regulations for ADUs*



- (A) *ADUs* shall be permitted in all zones allowing residential uses, consistent with the Use Table of the applicable base zone.
- (B) One *ADU* shall be permitted in a Single Dwelling Unit Zone on a *premises* with an existing or proposed *single dwelling unit*.
- (C) On a *premises* located in a Single Dwelling Unit Zone with an existing *multiple dwelling unit*, or a *premises* located in a Multiple Dwelling Unit Zone with an existing or proposed *dwelling unit*, *ADUs* shall be permitted as follows:
  - (i) Two *ADUs* that are attached to and/or detached from an existing or proposed *structure* are permitted; and
  - (ii) The number of *ADUs* permitted within the habitable area of an existing *dwelling unit structure* is limited to 25 percent of the total number of existing *dwelling units* in the *structure*, but in no case shall be less than 1 *ADU*; and
  - (iii) There is no limit on the number of *ADUs* permitted within the portions of existing *dwelling unit structures* and *accessory structures* that are not used as livable space, including, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each *ADU* complies with state building standards for *dwelling units*.
- (D) An *ADU* with a *gross floor area* of 800 square feet shall be permitted on a *premises* with an existing or proposed *dwelling unit* regardless of maximum *lot coverage*, maximum *floor area ratio*, and minimum open space requirements. The *development* shall comply with the *floor area ratio* of the underlying base zone unless the *development* incorporates the existing *structure* that exceeds the allowable *floor area ratio* or is under the allowable *floor area ratio* by less than 800 square feet, in which case an *ADU* that does not exceed 800 square feet shall be permitted.

- (E) An *ADU* may be attached to, located within, or detached from an existing or proposed primary *dwelling unit*, including garages and habitable or non-habitable *accessory structures*.
- (F) The minimum *gross floor area* of an *ADU* shall not be less than 150 square feet. The maximum *gross floor area* of an *ADU* shall not exceed 1,200 square feet. An *ADU* constructed within an existing *dwelling unit* or *accessory structure* may construct an additional 150 square feet for ingress and egress only.
- (G) *ADU Bonus for Affordable ADUs*. One additional *ADU* shall be permitted for every *ADU* on the *premises* that is affordable to *very low income*, *low income*, and *moderate income* households for a period of not less than 15 years guaranteed through a written agreement, and a deed of trust securing the agreement, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission.
  - (i) There is no limit on the number of bonus *ADUs* within a *transit priority area*.
  - (ii) One bonus *ADU* is permitted outside a *transit priority area*.
  - (iii) For *ADUs* to be counted as affordable and meet the requirements of this Section, the qualifying criteria in Table 141-03A shall be met.

**Table 141-03A**  
**Qualifying Criteria for Affordable *ADU* Bonus**

	<b>Rental <i>ADUs</i></b>	<b>For-Sale <i>ADUs</i><sup>1</sup></b>
	<b>shall be affordable, including an allowance for utilities, at a rent that does not exceed:</b>	<b>shall be affordable at an affordable housing cost that does not exceed:</b>
<b><i>Very Low Income</i> households</b>	30 percent of 50 percent of the area median income, as adjusted for family size appropriate for	30 percent of 50 percent of the area median income, as adjusted for family size appropriate

	the unit.	for the unit.
<b>Low Income households</b>	30 percent of 60 percent of the area median income, as adjusted for family size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for family size appropriate for the unit.
<b>Moderate Income households</b>	30 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.	35 percent of 110 percent of the area median income, as adjusted for family size appropriate for the unit.

**Footnotes for Table 141-03A**

- (1) For-sale *ADUs* are subject to the requirements of Section 141.0302(c)(1)(B)
  
- (d) In addition to the requirements in Section 141.0302(a), *Junior Accessory Dwelling Units* are subject to the following additional regulations:
  - (1) Use Regulations
    - (A) The *record owner* is required to live on the same *premises* as the *JADU*.
    - (B) The *JADU* may not be sold or conveyed separately from the primary *dwelling unit*.
    - (C) Before a Building Permit may be issued for a *JADU*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following provisions: that the *JADU* may not be sold or conveyed separately from the primary *dwelling unit*; the agreement may be enforced against future purchasers; and the *record owner* shall reside on the *premises*. The City will submit the agreement to the County Recorder for recordation. The agreement shall run with the land for the life of the *JADU*.
  - (2) *Development Regulations*

- (A) One *JADU* is permitted on a *premises* located within a Single Dwelling Unit Zone with an existing or proposed primary *single dwelling unit*.
- (B) A *JADU* of not less than 150 square feet and not more than 500 square feet is permitted within an existing or proposed *single dwelling unit*, an attached or detached garage, or *ADU*. A *JADU* constructed within an existing *structure* may construct an additional 150 square feet for ingress and egress only.
- (C) A *JADU* shall have a separate exterior entry from the primary *dwelling unit* and shall provide, a *kitchen* or an *efficiency kitchen*.

MARA W. ELLIOTT, CITY ATTORNEY

By */s/ Shannon C. Eckmeyer*

\_\_\_\_\_  
Shannon C. Eckmeyer  
Deputy City Attorney

SCE:cm

Doc. No. 3182258

cc: Diana Fuentes, Assistant City Clerk  
Kelley Stanco, Deputy Director  
Seth Litchney, Program Manager  
Liz Saidkhanian, Development Project Manager III  
Corey Funk, Senior Planner  
Sonia Pickens, Administrative Aide II



**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0704, 126.0707, AND 126.0708; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 141.0302 AND 141.0318, ALL RELATING TO ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS REQUIRED FOR CERTIFICATION OF THE MOVABLE TINY HOUSES AMENDMENTS TO THE COMPANION UNIT AND JUNIOR UNIT REGULATIONS AND THE HOUSING LEGISLATION CODE UPDATE TO THE MUNICIPAL CODE AND LOCAL COASTAL PROGRAM.

**§126.0704 Exemptions from a Coastal Development Permit**

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

- (a) Improvements to existing *structures*, ~~including the construction of attached *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* in accordance with Section 141.0302~~ are exempt, except if the improvements involve any of the following:

(1) through (8) [No change in text.]

- (9) *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* that are not completely contained in the existing primary *structure* or include increases in habitable area or include conversion of nonhabitable space. Such *ADUs* and *JADUs* are considered

self-contained residential units within new construction and are therefore ineligible for an exemption.

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

**§126.0707 Decision Process for a Coastal Development Permit**

(a) A decision on an application for a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two, except that a decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c). The decision may be appealed to the Planning Commission in accordance with Section 112.0504.

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

(d) ~~Except for Coastal Development Permits issued in accordance with Section 126.0707(g),~~ conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall

notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.

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

(g) A decision on an application for a City-issued Coastal Development Permit for an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* in the non-appealable area of the Coastal Overlay Zone shall be made as follows:

- (1) The Coastal Development Permit shall be issued as a Building Permit in accordance with Process One as specified in Section 112.0502 and Chapter 12, Article 9, Division 2. Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply.
- (2) If the proposed coastal development involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

**§126.0708 Findings for Coastal Development Permit Approval**

Except for Coastal Development Permits issued in accordance with Section 126.0707(g), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are

applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative findings in Section 126.0708(c), and if applicable, the supplemental findings in Section 126.0708(b), are satisfied.

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

(c) The following administrative findings shall be made for Coastal Development Permits required for *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* permitted in accordance with Section 126.0707(g) in order to ensure that the *development* conforms to the Local Coastal Program:

(1) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*.

(2) The proposed *coastal development* permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan* and Chapter 13, Article 2, Division 4.

(3) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.



- (4) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).

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

Section 141.0302 provides for the construction of *Accessory Dwelling Units (ADUs)* and *Junior Accessory Dwelling Units (JADUs)*, consistent with the requirements of state law, and is intended to encourage the construction of *ADUs* and *JADUs* through several local regulatory provisions, including allowing encroachment into the interior side *yard* and rear *yard setbacks* up to the *property line*, eliminating parking requirements for *ADUs* and *JADUs*, and providing an affordable housing bonus of one additional *ADU* for every deed-restricted affordable *ADU* constructed on the *premises*, as specified in the regulations below. *ADUs* are permitted in all zones allowing residential uses and *JADUs* are permitted in all *single dwelling unit* zones by-right as a limited use decided in accordance with Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The following regulations are applicable to both *ADUs* and *JADUs*:
- (1) [No change in text.]
  - (2) *Development Regulations*
    - (A) through (C) [No change in text.]
    - (D) The following *setback* allowances are applicable:
      - (i) Conversion of existing *structure* to an *ADU* or *JADU*. No *setback* is required for an existing

*dwelling unit* or *accessory structure* that is converted to an *ADU* or *JADU*, or to a portion of an *ADU* or *JADU*. An *ADU* or *JADU* that is constructed in the same location and to the same dimensions as an existing *structure* may continue to observe the same *setbacks* as the *structure* it replaced. An existing *structure* may not be converted to or reconstructed as an *ADU* or *JADU* if the *structure* does not conform to the wetlands regulations in Section 143.0141(b), the sensitive coastal bluffs regulations in Section 143.0143, the coastal beaches regulations in Section 143.0144, or the Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

(ii) [No change in text.]

(E) [No change in text.]

(F) Within the Coastal Overlay Zone, the following regulations apply to *ADUs* or *JADUs* constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Sea Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential *development*.

- (i) The ADU or JADU shall comply with the regulations in Section 143.0146(c) and, if applicable, Section 143.0146(g). The base flood elevation utilized, and the applicability of Section 143.0146(g), shall be based on the FIRM Zone of the Special Flood Hazard Area in closest proximity to the premises on which the ADU or JADU is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.
- (ii) Hard shoreline armoring shall not be constructed to protect an ADU or JADU from the effects of coastal hazards, including, but not limited to, sea level rise.
- (iii) The record owner of the ADU or JADU shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions: (1) that the ADU or JADU is located in an area of future sea level rise that may become hazardous in the future; (2) that sea level rise

could render it difficult or impossible to provide services to the site; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development* approval does not permit encroachment onto public trust land; 4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified *Local Coastal Program*; (5) that the owner waives any rights under Coastal Act Section 30235 and related *Local Coastal Program* policies to hard shoreline armoring to protect the *ADU* or *JADU*; and (6) that the *structure* may be required to be removed or relocated and the site restored if it becomes unsafe.

- (iv) The record owner of the *ADU* or *JADU* shall provide notice to all occupants of the *ADU* or *JADU* of the acknowledgements and provisions specified in Section 141.0302(a)(2)(F)(ii) and (iii).

(3) Parking Regulations



- (A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs* and *JADUs* except as specified in Section 141.0302(a)(3)(B). If the *applicant* chooses to provide *off-street parking spaces* for *ADUs* and/or *JADUs* located on the *premises*, those spaces shall comply with the following:
- (i) *Off-street parking spaces* may be located in any configuration, may be within the *setback* areas, and may include tandem spaces or mechanical lifts.
  - (ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*.
- (B) When an garage, carport, or covered parking structure is demolished in conjunction with the construction of an *ADU* or *JADU*; or converted to an *ADU* or *JADU*, replacement of those is proposed on a premises located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, one off-street parking spaces is not located consistent with Section 141.0302(a)(3)(D) shall be required, per ADU or JADU, unless any of the following apply:
- (i) The ADU or JADU is 500 square feet or less;

- (ii) The premises is located within a historical district that is a designated historical resource:
  - (iii) The ADU or JADU is attached to the proposed or existing primary dwelling unit or accessory structure:
  - (iv) The premises is located within a residential permit parking district:
  - (v) There is a car share vehicle located within one block of the premises.
- (C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or JADU, or converted to an ADU or JADU, replacement of those off-street parking spaces is not required unless the premises is located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a transit priority area, in which case the parking shall be replaced in a location consistent with Section 141.0302(a)(3)(D).
- (D) If off-street parking spaces are required in accordance with Section 141.0302(a)(3)(B) or 141.0302(a)(3)(C), or if the applicant chooses to provide off-street parking spaces for ADUs and/or JADUs located on the premises, those spaces shall comply with the following:

- (i) Off-street parking spaces may be located in any configuration, may be within the setback areas, and may include tandem spaces or mechanical lifts.
- (ii) Off-street parking spaces shall be located within hardscape areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the lot.

(4) [No change in text.]

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

**§141.0318 Movable Tiny Houses**

*Movable tiny houses* are permitted as a limited use in accordance with Process One in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations.

(a) *Development* Regulations

(1) A *movable tiny house* shall be:

(A) [No change in text.]

(B) exempt from parking regulations unless the *movable tiny house* is located in the Beach Impact Area of the Parking Impact Overlay Zone but outside of a *transit priority area*, in which case one *off-street parking space* shall be required if there is already an *Accessory Dwelling Unit* or

Junior Accessory Dwelling Unit present on the same premises.

(2) through (11) [No change in text.]

(12) Within the Coastal Overlay Zone, the following regulations apply to movable tiny houses constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Sea Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential development:

(A) Hard shoreline armoring shall not be constructed to protect a movable tiny house from the effects of coastal hazards, including, but not limited to, sea level rise.

(B) The record owner of the movable tiny house shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions: (1) that the movable tiny house is located in an area of future sea level rise that may become hazardous in the future; (2) that sea level rise could render it difficult or impossible to provide services to the site; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the development approval



does not permit encroachment onto public trust land;  
(4) that additional adaptation strategies may be required  
in the future to address sea level rise consistent with the  
Coastal Act and certified *Local Coastal Program*; (5)  
that the owner waives any rights under Coastal Act  
Section 30235 and related *Local Coastal Program*  
policies to hard shoreline armoring to protect the  
*movable tiny house*; and (6) that the *structure* may be  
required to be removed or relocated and the site  
restored if it becomes unsafe.

(C) *The record owner of the movable tiny house shall*  
*provide notice to all occupants of the movable tiny*  
*house of the acknowledgements and provisions*  
*specified in Section 141.0318(a)(12)(A) and (B).*

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

CLN:cm  
05/27/2022  
Or.Dept: Planning  
Doc. No. 2926863\_2

Passed by the Council of The City of San Diego on JUL 12 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 21 2022.

AUTHENTICATED BY: TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on JUN 20 2022, and on JUL 21 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 022222