

### Article 3: Supplemental Development Regulations

#### Division 7: Affordable Housing Regulations

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

*(Retitled from “Affordable Housing Density Bonus Regulations” to “Affordable Housing Regulations” on 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*

#### §143.0710 Purpose of Affordable Housing Regulations

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 *lower income students*, 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.

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

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

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 The 2008 Ordinance O-19689 was withdrawn from the California Coastal Commission and Ordinance O-20518 was then submitted and subsequently certified by the Coastal Commission on May 11, 2016.]

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

*(Retitled from “Purpose of Affordable Housing Density Bonus Regulations” to “Purpose of Affordable Housing Regulations” and amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*

*(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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

This Division applies to any *development* where current zoning allows for five or more *dwelling units*, not including *density bonus units*, in exchange for either of the following:

- (a) A portion of the total *dwelling units* in the *development* being reserved for *very low, low, or moderate income* or senior households; or for *lower income students*, transitional foster youth, disabled veterans, or homeless persons in accordance with this Division; or
- (b) The donation of land, pursuant to the State Density Bonus Law.

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

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

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

*(Amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*

*(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

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**§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*, *very low income*, or *moderate income*, or have been occupied by persons and families of *low income*, *very low income*, or *moderate income*, unless the proposed *development* replaces the affordable *dwelling units*, and either:
  - (1) Provides affordable *dwelling units* at the percentages set forth in Section 143.0720(i) (inclusive of the replacement *dwelling units*), or
  - (2) Provides all of the *dwelling units* as affordable to *low income*, *very low income*, or *moderate income* households, excluding any manager’s unit(s).
  
- (b) The number and type of required replacement *dwelling units* shall be determined as follows:
  - (1) For a *development* containing any occupied *dwelling units*, the *development* must contain at least the same number of replacement *dwelling units*, of equivalent size 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*. For unoccupied *dwelling units* in the *development*, the replacement *dwelling units* shall be made affordable to and occupied by persons and families 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 and *bedrooms*, as existed at the 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, it is rebuttably presumed that the *dwelling units* were occupied by *very low income*, *low income*, or *moderate income* renter households in the same proportion of *very low income*, *low income*, or *moderate 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) All replacement *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.
- (4) All rental replacement *dwelling units* shall be affordable for at least 55 years.
- (5) All for-sale replacement *dwelling units* shall be subject to the provisions of Section 143.0720(d)(4)-(8).

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

*(Amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*

*(Amended 7-30-2020 by O-21222 N.S.; effective 8-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21222 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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

- (a) A *development* shall be entitled to a *density* bonus and incentives as described in this Division, for any *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.
- (b) The *density* bonus *dwelling units* authorized by this Division shall be exempt from the Inclusionary Housing Regulations set forth in Chapter 14, Article 2, Division 13.
- (c) A rental affordable housing *density* bonus agreement shall utilize the following qualifying criteria:
  - (1) *Very low income* - At least 5 percent of the pre-*density* bonus *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 appropriate for the *dwelling unit*; or
  - (2) *Low income* - At least 10 percent of the pre-*density* bonus *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 appropriate for the *dwelling unit*.
  - (3) The *very low* and *low income dwelling units* shall be designated units, be comparable in bedroom mix and amenities to the market-rate *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, as may be required by other laws or covenants.
  - (5) *Moderate income* - At least 10 percent of the pre-*density* bonus *dwelling units* in the *development* shall be affordable to and occupied by *moderate income* households.
- (d) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria:

- (1) *Very low income* - At least 5 percent of the pre-density bonus *dwelling units* in the *development* shall be affordable to *very low income* households at an affordable housing cost that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit*.
- (2) *Low income* - At least 10 percent of the pre-density bonus *dwelling units* in the *development* shall be affordable to *low income* households at an affordable housing cost that does not exceed 30 percent of 70 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit*.
- (3) *Moderate income* - At least 10 percent of the total *dwelling units* in a common interest development, as defined in California Civil Code Section 4100, shall be affordable to *moderate income* households at an affordable housing cost that is not less than 28 percent of the gross income of the household, nor exceeds 35 percent of 110 percent of the area median income, as adjusted for household size appropriate for the *dwelling unit*. To qualify, all *dwelling units* in the *development* shall be offered to the public for purchase.
- (4) The initial occupant of all for-sale affordable *dwelling units* shall be a *very low income, low income, or moderate income* household.
- (5) Prior to, or concurrent with, the sale of each *density* bonus affordable *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 *dwelling unit* shall be occupied by the initial owner at all times until the resale of the *dwelling unit*.
- (7) Upon the first resale of a *dwelling unit*, the seller shall comply with all conditions regarding the sale of a *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 *dwelling units* shall be designated, comparable in bedroom mix and amenities to the market-rate *dwelling units* in the *development*, and dispersed throughout the *development*.

- (e) A *density* bonus agreement for housing for senior citizens shall utilize the following qualifying criteria:
  - (1) The *development* consists of housing for senior citizens or qualifying residents as defined under California Civil Code Section 51.3 and 51.12, where at least 35 *dwelling units* are provided; or a *mobilehome* park that limits residency based on age requirements for housing for older persons pursuant to California Civil Code Section 798.76 or 799.5.
  - (2) Rental *dwelling units* shall remain available for a period of 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.
  
- (g) A *lower income student's* housing *density* bonus agreement shall utilize the following qualifying criteria:
  - (1) At least 20 percent of the pre-*density* bonus units in the *development* shall be affordable to *lower income students* at a rent that does not exceed 30 percent of 65 percent of the area median income for a single-room occupancy unit type.

- (A) The eligibility of a student shall be verified by an affidavit, award letter, or letter of eligibility provided by the institution of higher education that the student is enrolled in, or by the California Student Aid Commission, stating that the student receives or is eligible for financial aid, including an institutional grant or fee waiver, from the college or university, the California Student Aid Commission, or the federal government.
  - (B) For the purposes of calculating a *density* bonus granted pursuant to Section 143.0720(g), the term “unit” means one rental bed and its pro rata share of associated common area facilities.
- (2) All units in the student housing *development* shall be used exclusively for undergraduate, graduate, or professional students enrolled full time at an institution of higher education accredited by the Western Association of Schools and Colleges or the Accrediting Commission for Community and Junior Colleges. The *applicant* shall, as a condition of receiving a certificate of occupancy, provide evidence to the satisfaction of the City Manager that the *applicant* has entered into an operating agreement or master lease with one or more institutions of higher education for the institution or institutions to occupy all units of the student housing *development* with students from that institution or institutions.
  - (3) The *development* will provide *lower income students* experiencing homelessness priority for the applicable affordable units. A homeless service provider, as defined in Section 103577(e)(3) of the California Health and Safety Code, or institution of higher education that has knowledge of a *lower income student’s* homeless status may verify a *lower income student’s* status as homeless.
  - (4) Rental units shall remain available as affordable units for a period of 55 years or longer, as may be required by other laws or covenants.
- (h) A *density* bonus agreement for a *development* providing 100 percent of the pre-*density* bonus *dwelling units* as affordable, shall utilize the following qualifying criteria:



- (1) 100 percent of the pre-*density* bonus *dwelling units* in the *development*, exclusive of a manager's unit or units, shall be affordable to *very low income* or *low income* households, except that up to 20 percent of the pre-*density* bonus *dwelling units* may be affordable to *moderate income* households. The post-*density* bonus units shall be affordable to *very low income*, *low income*, or *moderate income* households, unless offered in accordance with the provisions of Section 143.0720(h)(2)(D).
- (2) Rents for all *dwelling units* in the *development*, including pre-*density* bonus and post-*density* bonus *dwelling units*, shall be as follows:
  - (A) *Very low income 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, appropriate for the *dwelling unit*.
  - (B) *Low income 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, appropriate for the *dwelling unit*.
  - (C) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.
  - (D) Notwithstanding Sections 143.0720(h)(2)(A)-(C), the rent for up to 80 percent of the *dwelling units* in the *development* may be set at an amount consistent with the maximum rent levels for a housing development that receives an allocation of state or federal low-income housing tax credits from the California Tax Credit Allocation Committee.
- (3) Rental affordable *dwelling units* shall remain available for a period of 55 years or longer, as may be required by other laws or covenants.

- (i) A *density* bonus agreement for a *development* within a *transit priority area* providing 100 percent of the total pre-*density* bonus and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households shall utilize the following qualifying criteria:
  - (1) 100 percent of the total pre-*density* bonus and post-*density* bonus *dwelling units* in the *development*, exclusive of a manager's unit or units, shall be affordable to *very low income*, *low income*, or *moderate income* households in any combination of percentages.
  - (2) Rents for all *dwelling units* in the *development* shall be established as follows:
    - (A) *Very low income 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 50 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.
    - (B) *Low income 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, appropriate for the *dwelling unit*.
    - (C) *Moderate income dwelling units* in the *development* shall be affordable, including an allowance for utilities, to *moderate income* households at a rent that does not exceed 30 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.
  - (3) A for-sale affordable housing *density* bonus agreement shall utilize the following qualifying criteria:
    - (A) *Very low income dwelling units* in the *development* shall be affordable to *very low income* households at an affordable housing cost that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.
    - (B) *Low income dwelling units* in the *development* shall be affordable to *low income* households at an affordable housing cost that does not exceed 30 percent of 70 percent of the area median income, as adjusted for household size, appropriate for the *dwelling unit*.

- (C) *Moderate income dwelling units* in the *development* shall be affordable to *moderate income* households at an affordable housing cost that is not less than 28 percent of the gross income of the household, nor exceeds 35 percent of 110 percent of the area median income, as adjusted for household size, appropriate for the *dwelling units*.
- (4) Rental and for-sale affordable *dwelling units* shall remain available for a period of 55 years or longer, as may be required by other laws or covenants.
- (j) The *density bonus 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.
- (k) A *condominium conversion* that provides at least 33 percent of the total *dwelling units* to *low income* and *moderate income* households, or 15 percent of the total *dwelling units* to *low income* households, shall be entitled to a *density bonus* of 25 percent or other incentives of equivalent financial value in accordance with State Density Bonus Law and this Division, unless the *development* previously received a *density bonus* or other incentives.
- (l) A *development* proposal requesting an affordable housing *density bonus* is subject to the following:
  - (1) For *development* meeting the criteria 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.
  - (2) For *development* meeting the criteria for *very low income* households in Section 143.0720(c)(1), the *density bonus* shall be calculated as set forth in Table 143-07A. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 75 percent.

- (3) For *development* meeting the criteria for *low income* households in Section 143.0720(c)(2), the *density* bonus shall be calculated as set forth in Table 143-07B. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 75 percent.
- (4) For *development* meeting the criteria for *moderate income* households in Section 143.0720(c) and (d), the *density* bonus shall be calculated as set forth in Table 143-07C. The increased *density* shall be in addition to any other increase in *density* allowed in this Division, up to a maximum combined *density* increase of 50 percent.
- (5) 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.
- (6) For *development* meeting the criteria for *lower income students*, the *density* bonus shall be 35 percent of the total pre-*density* bonus units, calculated in accordance with Section 143.0720(g)(1)(B).
- (7) For *development* providing at least 100 percent of the pre-*density* bonus *dwelling units* as affordable to *very low income*, *low income* and *moderate income* households in accordance with Section 143.0720(h); or *development* within a *transit priority area* providing at least 100 percent of the total pre-*density* and post-*density* bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households in accordance with Section 143.0720(i), the *density* bonus shall be as follows:
  - (A) For *development* located outside of a *transit priority area*, the *density* bonus shall be 80 percent of the number of pre-*density* bonus *dwelling units* provided for *low income* or *very low income* households. This bonus does not apply to *development* consistent with Section 143.0720(i).
  - (B) For *development* located within a *transit priority area*, there shall be no limit on the number of *dwelling units* permitted.

- (8) For *development* meeting the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), 143.0720(f), 143.0720(g), 143.0720(h), or 143.0720(i), where an *applicant* 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.
- (9) For micro-unit *development* that provides five or more *dwelling units*; meets the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), 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*; 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. For *development* meeting the same criteria within the Centre City Planned District Ordinance, the *development* must comply with Section 156.0309(e)(1)(C).
- (10) 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.
- (11) 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.
- (12) 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 to *very low income*, *low income*, 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*.

- (13) If the applicable *land use plan* map identifies an allowable *density* range in *dwelling units* per acre, the maximum allowable *density* in that range shall be used to calculate the *density* bonus as set forth in Table 143-07A, Table 143-07B or Table 143-07C. The allowed *density* bonus *dwelling units* shall not be counted towards the maximum allowed *floor area ratio* of the zone; and within the mixed-use base zones the allowed *density* bonus *dwelling units* shall not be counted towards the percentage of the required *primary use* or secondary use, as that term is defined in Section 131.0702.
- (14) Within the Centre City Planned District, the maximum *floor area ratio* shall be used to calculate the base *density* and *density bonus* as set forth in Table 143-07A, Table 143-07B, or Table 143-07C, and shall comply with Section 156.0309(e)(1).
- (m) For purposes of this Division, *density* bonus means an increase in *density* in accordance with Section 113.0222(c) beyond the otherwise maximum allowable *density*; or, if elected by the *applicant*, a lesser percentage of *density* or no increase in *density*.
- (n) All *density* calculations resulting in fractional units shall be rounded up to the next whole number.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)  
(Amended 12-5-07 by O-19689; effective 01-04-08.)

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

(Amended 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)  
(Amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)  
(Amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)  
(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)  
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### §143.0730 Density Bonus in Exchange for Donation of Land

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

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

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

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

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

**§143.0740 Incentives 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* as set forth in this Section.

- (a) An incentive means any of the following:
  - (1) A deviation to a *development* regulation;
  - (2) Approval of mixed use zoning in conjunction with a residential *development* provided that the commercial, office, or industrial uses:
    - (A) Reduce the cost of the residential *development*; and
    - (B) Are compatible with the proposed residential *development*; and
    - (C) Are compatible with existing or planned *development* in the area where the proposed residential *development* will be located.
  - (3) Any other incentive proposed by the *applicant*, other than those identified in Section 143.0740(b), that results in identifiable, actual cost reductions.
- (b) Items not considered incentives by the City of San Diego include, but are not limited to the following:
  - (1) A waiver of a required permit;
  - (2) A waiver of fees or dedication requirements;
  - (3) A direct financial incentive;
  - (4) An increase in the maximum permitted *floor area ratio* in *land use plans* that use *floor area ratio* rather than *dwelling units* per acre or per square foot as the mechanism to control density.



- (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 Section 143.0720 shall be entitled to incentives pursuant to Section 143.0740 unless the City makes a written *finding* of denial based upon substantial evidence, of any of the following:
    - (A) The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;
    - (B) The incentive would have a specific adverse impact upon public health and safety as defined in Government Code section 65589.5, the physical environment, including *environmentally sensitive lands*, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the *development* unaffordable to *low income* and *moderate income* households;
    - (C) The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act as set forth in Chapter 12, Article 8, and no incentive shall be granted without such compliance; or
    - (D) Within the Coastal Overlay Zone, the incentive would be inconsistent with the resource protection standards of the City's Local Coastal Program or the *environmentally sensitive lands* regulations, with the exception of *density*.
  - (2) The granting of an incentive shall not require a General Plan amendment, zoning change, a *development permit*, or other discretionary approval.
  - (3) 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) The number of incentives available are identified in Table 143-07A for *very low income* households, Table 143-07B for *low income* households, and Table 143-07C for *moderate income* households consistent with the percentage of pre-density bonus units identified in the first column of each table.
- (e) For a *development* providing 100 percent of the pre-density bonus *dwelling units* as affordable to *very low income*, *low income* and *moderate income* households in accordance with Section 143.0720(h); or *development* within a *transit priority area* providing 100 percent of the total pre-density and post-density bonus *dwelling units* as affordable to *very low income*, *low income*, and *moderate income* households in accordance with Section 143.0720(i), five incentives shall be available. If the *development* is located within a *transit priority area* the *applicant* shall also receive a *structure height* increase of up to 3 additional *stories* or 33 feet.
- (f) For *development* meeting the criteria for *lower income students* in accordance with Section 143.0720(g), two incentives shall be available.

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

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

<sup>1</sup> For *development* containing 50 pre-density *dwelling units* or less, once this maximum is reached, an additional 25 percent *density bonus* and three incentives are allowed if an additional 10 percent of the pre-density bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

- <sup>2</sup> Once this maximum is reached, an additional 25 percent *density* bonus and three incentives are allowed if an additional 10 percent of the pre-*density* bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

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

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

- <sup>1</sup> For *development* containing 50 pre-*density dwelling units* or less, once this maximum is reached, an additional 25 percent *density* bonus and three incentives are allowed if an additional 10 percent of the pre-*density* bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.
- <sup>2</sup> Once this maximum is reached, an additional 25 percent *density* bonus and three incentives are allowed if an additional 10 percent of the pre-*density* bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

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

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

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

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

*(Amended 7-28-2015 by O-20518 N.S.; effective 8-27-2015.)  
(Amended 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)  
(Retitled from “Development Incentives for Affordable Housing Density Bonus Project” to “Incentives in Exchange for Affordable Housing Dwelling Units” and amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)  
(Amended 7-30-2020 by O-21222 N.S.; effective 8-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21222 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.  
Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-21222-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21222-SO.pdf) ]

*(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.  
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*(Amended 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)*

**[Editors Note:** Amendments as adopted by O-21288 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.  
Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-21288-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21288-SO.pdf)

**§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.

(“*Density Bonus and Incentives in Exchange for Child Care*” added 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)

**§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*.

(“*Incentives for Commercial Development*” added 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)

**§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.
- (f) A proposal for the waiver or reduction of *development* regulations pursuant to this Section 143.0743 shall neither reduce nor increase the number of incentives to which the *applicant* is entitled pursuant to Section 143.0740.
- (g) A residential *development* that receives a waiver from any maximum controls on density pursuant to Section 143.0720(l)(7)(B) shall not be eligible for, and shall not receive, a waiver or reduction of *development* regulations pursuant to this Section 143.0743.

(“Waivers in Exchange for Affordable Housing Units” added 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)  
(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)

**[Editors Note:** Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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#### §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), 143.0720(g), 143.0720(h), or 143.0720(j), the vehicular parking ratios in Table 143-07D, as may be applicable, or those set forth in Chapter 14, Article 2, Division 5, inclusive of disabled and guest parking, whichever is lower, shall apply. 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.



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

<b>Type of <i>Development</i></b>	<b>Percent Affordable</b>	<b>Transit Requirement<sup>3</sup></b>	<b>Parking Ratio for <i>Development</i><sup>1</sup></b>
Rental or for-sale <i>development</i> containing market rate and <i>very low income, low income</i> and/or <i>moderate income dwelling units</i> <ul style="list-style-type: none"> <li>• <i>Very low income</i></li> <li>• <i>Low income</i></li> <li>• <i>Moderate income</i></li> </ul>	11% 20% 10%	The <i>development</i> is located within a <i>transit priority area</i>	0.5 spaces per <i>bedroom</i>
Rental housing <ul style="list-style-type: none"> <li>• <i>Very low income, low income and moderate income</i></li> </ul>	100% <sup>2</sup>		0.5 spaces per <i>dwelling unit</i>
Rental housing with an affordable housing cost to lower income senior citizens in accordance with California Civil Code Sections 51.3 and 51.12	100% <sup>2</sup>	The <i>development</i> shall have either paratransit service, or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.	0.5 spaces per <i>dwelling unit</i>
Rental housing affordable to <i>very low income</i> and <i>low income</i> households that is either a special needs housing <i>development</i> as defined in California Health and Safety Code (CHSC) Section 51312 or a supportive housing <i>development</i> as defined in CHSC Section 50675.14	100% <sup>2</sup>	The <i>development</i> shall have either paratransit service or be located within ½ mile of unobstructed access to a fixed bus route service that operates at least eight times per day.	0 spaces per <i>dwelling unit</i>

**Footnotes for Table 143-07D**

- <sup>1</sup> Parking reductions shall not be subject to the parking regulations of the Transit Overlay Zone and shall not be entitled to parking reductions provided in Section 142.0550 (Parking Assessment District Calculation Exception).
- <sup>2</sup> Exclusive of a manager’s unit.
- <sup>3</sup> Section 142.0528 applies to *development* within the Parking Standards Transit Priority Area.

*(“Parking Ratios for Affordable Housing” added 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*

*(Amended 7-30-2020 by O-21222 N.S.; effective 8-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21222 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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*(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**[Editors Note:** Amendments as adopted by O-21254 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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

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

- (a) Off-site affordable *dwelling units* shall be located in the same community planning area and City Council District, or within one mile of the *premises* of the *development*. The distance shall be measured in a straight line from the *property lines* of the proposed housing *developments*.
- (b) Off-site affordable *dwelling units* that do not meet the locational criteria in Section 143.0745(a) may be approved with a Process Four Planned Development Permit in accordance with Section 126.0604.

- (c) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and the same total *bedroom* count as the *development*. The *applicant* may provide different *bedroom* mixes to meet the total *dwelling unit* and *bedroom* count minimums.
- (d) The *applicant*, prior to the issuance of the first building permit for the *development*, shall secure the required number of off-site affordable *dwelling units* and enter into an agreement(s) with the President and Chief Executive Officer of the San Diego Housing Commission establishing the same terms and conditions set forth in Section 143.0720 for similar affordable *density bonus dwelling units*.
- (e) 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.
- (f) Prior to the issuance of the first building permit, the *applicant* shall record a deed restriction against the off-site *development* that:
  - (1) Documents the required number of affordable *dwelling units* to be provided; and
  - (2) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:
    - (A) For new *development*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 54 months of the issuance of the first building permit.
    - (B) For an existing *structure(s)*, if the affordable *dwelling unit(s)* has not received a certificate of occupancy within 36 months of the issuance of the first building permit.

(“Locating Required Affordable Dwelling Units Off-site” added 7-19-2016 by O-20673 N.S.; effective 8-27-2016.)  
(Amended 9-15-2017 by O-20856 N.S.; effective 10-20-2017.)  
(Amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)

**§143.0750 Affordable Housing Incentives and Waivers Report**

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.

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

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

*(Retitled from “Deviation to Allow for Additional Development Incentive” to “Affordable Housing Incentives and Waivers Report” and amended 3-22-2018 by O-20916 N.S.; effective 4-21-2018.)*