

### Article 3: Supplemental Development Regulations

#### Division 8: Coastal Overlay Zone Affordable Housing Replacement Regulations

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

#### §143.0810 Purpose of Coastal Zone Affordable Housing Replacement Regulations

The purpose of these regulations is to preserve existing *dwelling units* within the Coastal Overlay Zone that are occupied by *very low income*, *low income*, or *moderate income families* as defined by California Government Code Section 65590(b). These regulations are intended to implement California Government Code Section 65590 and the City of San Diego's pro-housing policies, by providing for replacement housing within the Coastal Overlay Zone.

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

(Amended 1-16-2024 by O-21758 N.S.; effective 3-16-2024.)

**[Editors Note:** Amendments as adopted by O-21758 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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#### §143.0815 When Coastal Overlay Zone Affordable Housing Replacement Regulations Apply

- (a) This Division applies to any *development* that proposes the conversion or demolition of rental *dwelling units* within the Coastal Overlay Zone that are occupied by persons or *families* of *very low income*, *low income*, or *moderate income*, except as provided in Section 143.0820.
- (b) The following *development* types shall be reviewed for compliance with the regulations in this Division:
  - (1) Conversion from rental units to condominium units (cooperative or similar form of ownership);
  - (2) Conversion from residential to nonresidential use; and
  - (3) Demolition of a residential *structure* with three or more *dwelling units* or demolition of at least five *dwelling units* when two or more *structures* are involved.

- (c) Contiguous *lots* or *structures* owned by the *applicant* are considered as one project.

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

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### §143.0820 Exemptions from the Coastal Overlay Zone Affordable Housing Replacement Regulations

This Division is not applicable to the following:

- (a) The demolition of a residential *structure* that has been declared a *public nuisance*;
- (b) The conversion or demolition of a residential *structure* to nonresidential use that is coastal-dependent or coastal-related, as defined by the California Coastal Act of 1976, as amended, when the nonresidential use is consistent with the applicable *land use plan*;
- (c) The conversion or demolition of a residential *structure* that contains less than three *dwelling units*; and
- (d) The conversion or demolition of 4 or fewer *dwelling units* on a *premises* with more than one residential *structure*.

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

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**§143.0830 Coastal Overlay Zone Affordable Housing Replacement Requirements**

- (a) Within the Coastal Overlay Zone, the conversion or demolition of *dwelling units* occupied by households of *very low income*, *low income*, or *moderate income* is prohibited unless provision is made for the replacement of the units on a one-to-one basis.
- (b) The replacement requirements to provide *dwelling units* affordable to, and occupied by, *very low income*, *low income*, or *moderate income families* can be met in any of the following ways:
  - (1) Conversion of existing market-rate *dwelling units* to units affordable to, and occupied by, *very low income*, *low income*, or *moderate income* persons or *families*;
  - (2) Conversion of existing nonresidential *development* to *dwelling units* affordable to, and occupied by, *very low income*, *low income*, or *moderate income* persons or *families*;
  - (3) *Development* of new *dwelling units* affordable to, and occupied by, *very low income*, *low income*, or *moderate income* persons or *families* to replace those housing units converted or demolished;
  - (4) Substantial rehabilitation of deteriorated or dilapidated *dwelling units* to units affordable to, and occupied by, *very low income*, *low income*, or *moderate income* persons or *families*; or
  - (5) Contribution of an in-lieu fee to the San Diego Housing Trust Fund or a contribution of real property that is acceptable to the Executive Director of the San Diego Housing Commission.

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

(Amended 1-16-2024 by O-21758 N.S.; effective 3-16-2024.)

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

- (a) The Executive Director of the San Diego Housing Commission shall be responsible for determining *very low income*, *low income*, and *moderate income* affordability standards and residents' qualifications.
- (b) The provisions of Chapter 14, Article 3, Division 7 (Affordable Housing Regulations) shall be made available to projects described in this division. If existing *dwelling units* are to remain on the project site, those units shall be subtracted from the total number of units permitted under the terms of the affordable housing density bonus to determine the number of units that may be transferred to another site.
- (c) Regulations controlling the use of *development* programs, such as *density* bonuses or financial subsidies, shall prevail where they are more restrictive than regulations set forth in this division.
- (d) The San Diego Housing Commission shall adopt, and annually update, a schedule for in-lieu fees.

(Amended 6-12-2001 by O-18948 N.S.; effective 12-12-2001.)

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

(Amended 1-16-2024 by O-21758 N.S.; effective 3-16-2024.)

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**§143.0850 Development Review Procedures and Requirements for Coastal Overlay Zone Affordable Housing Replacement**

- (a) The City Manager will review applications for *development* and determine whether the proposed *development* is exempt from the requirements of this division as described in Section 143.0820. If the project is not exempt, the *applicant* shall be so advised and referred to the San Diego Housing Commission to obtain a Coastal Affordable Housing Compliance Agreement.
- (b) Within 45 calendar days of receipt of the application for *development*, the Executive Director of the San Diego Housing Commission shall determine whether the dwelling units to be converted or demolished are occupied by persons or *families* of *very low income*, *low income*, or *moderate income*. This determination shall be based upon a survey of the residents. Information on tenant income shall be provided under penalty of perjury and shall include income from all sources, including reasonable return on tenant assets. A dwelling unit need not be replaced if, based upon a tenant income survey of the residents, the Executive Director determines that the unit is not occupied by persons or *families* of *very low income*, *low income*, or *moderate income*.
- (c) Where a proposed *development* is required to provide replacement units that are affordable to *very low income*, *low income*, or *moderate income* persons or *families*, the *applicant* shall enter into a Coastal Affordable Housing Compliance Agreement with the San Diego Housing Commission. The agreement shall include the following provisions:
  - (1) A description of the *coastal development* project, including its location and the number of *dwelling units* to be developed, converted, or demolished;
  - (2) A description of the affordable replacement units to be provided including their size and location; and
  - (3) A description of the method to be used to insure the affordability of the replacement *dwelling units*. The term of affordability shall be for at least 5 years. Affordability shall include the rent or estimated housing cost and, in the case of for-sale units, the *applicant* shall identify the techniques to be used to limit future resales. The agreement shall be recorded and shall be an encumbrance upon the *applicant's* project until the provisions of this section are satisfied.

- (d) If an *applicant* chooses to pay an in-lieu fee instead of providing replacement *dwelling units*, the agreement shall include a provision that the San Diego Housing Commission shall develop, and make available as soon as feasible, the number and type of *dwelling units* the *applicant* would otherwise have been required to provide. The agreement shall also include the amount of the fee and the manner in which the fee shall be paid in accordance with the following:
  - (1) In the case of conversions, the fee shall be due upon commencement of sales of *dwelling units* converted to residential ownership status or upon approval of the final permits for change of use to nonresidential use;
  - (2) In the case of demolition, the fee shall be due upon completion of the demolition;
  - (3) In the case of new for-sale units, the fee shall be due upon close of escrow for each housing unit in the *development*; or
  - (4) In the case of new rental units, the fee shall be due before occupancy by any tenant.
- (e) The San Diego Housing Commission shall determine the reasonable fees to be paid by the *applicant* for the cost incurred by the San Diego Housing Commission in connection with applications filed hereunder.
- (f) Determinations of the San Diego Housing Commission pursuant to this division shall be final on the 7th calendar day following action by the San Diego Housing Commission unless a request to be heard on appeal by the Housing Authority is processed in accordance with the procedures established by the City of San Diego Housing Commission.

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**§143.0860 Standards for Coastal Overlay Zone Affordable Housing Replacement Dwelling Units**

- (a) Replacement *dwelling units* shall provide housing opportunities similar to those provided by the *dwelling units* converted or demolished. Replacement *dwelling units* shall be acceptable to the Executive Director of the San Diego Housing Commission in accordance with a Coastal Affordable Housing Compliance Permit. The replacement *dwelling units* need not be identical to those converted or demolished, but should be provided in the same *bedroom* ratio.
- (b) Priority for location of replacement *dwelling units* shall be as follows and in accordance with Section 143.0860(c):
  - (1) On the site of the converted or demolished units;
  - (2) Elsewhere in the Coastal Overlay Zone within the same community plan area; or
  - (3) Elsewhere in the Coastal Overlay Zone;
- (c) Replacement *dwelling units* that are not located on the same *premises* as the converted or demolished affordable *dwelling units* shall comply with all of the following:
  - (1) Replacement *dwelling units* shall not be constructed within an area identified as a Low Resource or High Segregation and Poverty Opportunity Area by the California Tax Credit Allocation Committee when the *development* application is *deemed complete*.
  - (2) If the converted or demolished affordable *dwelling units* were located on a *premises* within an area identified as a High or Highest Resource Opportunity Area by the California Tax Credit Allocation Committee when the *development* application is *deemed complete*, the replacement *dwelling units* shall also be constructed within an area identified as a High or Highest Resource Opportunity Area by the California Tax Credit Allocation Committee and shall not be constructed in a lower Opportunity Area than the Opportunity Area in which the converted or demolished *structure* is located.

- (d) Replacement *dwelling units* shall be provided and available for occupancy within three years of the date that a converted unit is offered for sale to the public or that the physical demolition of a demolished unit is substantially complete.
- (e) *Very low income, low income, and moderate income* households located in an area identified as a Low Resource or High Segregation and Poverty Opportunity Area by the California Tax Credit Allocation Committee when the *development* application is *deemed complete* shall receive priority preference for new affordable *dwelling units* created under this Division.

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Note: The priority preference for households that qualify for affordable homes as set forth in Sections 142.1304(e)(3), 143.0720(p), 143.0860(e), 143.1005(b)(4), and 143.1212(f) will not be implemented until a program can be developed and a funding source can be approved as part of a future action of the Housing Authority or City Council to ensure successful implementation. For Sections 143.0860(e) and 143.1005(b)(4), only portions applicable to the priority preference are delayed.