

Article 3: Supplemental Development Regulations

Division 10: Complete Communities Housing Solutions Regulations

(“*Complete Communities Housing Solutions Regulations*” added
12-9-2020 by O-21275 N.S.; effective 1-8-2021.)

§143.1001 Purpose, Intent, and Definitions

- (a) Purpose. The purpose of these regulations is to provide a *floor area ratio*-based *density* bonus incentive program for *development* within *Sustainable Development Areas* that provides housing for *very low income*, *low income*, or *moderate income* households and provides neighborhood-serving infrastructure amenities. These regulations are intended to materially assist in providing adequate housing for all economic segments of the community; to provide a balance of housing opportunities within the City of San Diego with an emphasis on housing near transit; and to encourage use of mobility alternatives through the construction of neighborhood-serving infrastructure amenities. Investment in neighborhood-serving infrastructure that creates destinations and encourages walking, biking and use of transit, particularly within *Sustainable Development Areas*, is critical to the City’s Climate Action Plan goal to reduce greenhouse gas emissions. These regulations do not implement California Government Code Section 65915 (State Density Bonus Law), which is implemented through San Diego Municipal Code Chapter 14, Article 3, Division 7.
- (b) Definitions. For purposes of this Division, the following definitions shall apply:
- (1) FAR Tier 1 means any *premises* where any portion of the *premises* is located within the Downtown Community Planning Area.
 - (2) FAR Tier 2 means any *premises* where any portion of the *premises* is located in a regional or subregional employment area, as identified in the General Plan Economic Prosperity Element, or within a one-mile radius of any university campus that includes a medical center and is within a *Sustainable Development Area* that is located in a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3).
 - (3) FAR Tier 3 means any *premises* where any portion of the *premises* is located in an area located within a *Sustainable Development Area* that is located in a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3).

- (4) FAR Tier 4 means any *premises* where any portion of the *premises* is located in an area located within a *Sustainable Development Area* that is located in a community planning area within Mobility Zone 4 as defined in Section 143.1103(a)(4).
- (5) Community of Concern means a census tract that has been identified as having very low, low, or moderate access to opportunity as identified in the San Diego Climate Equity Index.

(“Purpose, Intent, and Definitions” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)

(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

[Editors Note: Amendments as adopted by O-21416 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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§143.1002 Application of Complete Communities Housing Solutions Regulations

- (a) At the request of the *applicant*, except as otherwise provided in Section 143.1030, the regulations in this Division shall apply to any *development* within a *Sustainable Development Area* where any portion of the *premises* contains zoning that is commercial, residential, or mixed-use and the *premises* is zoned to allow 20 *dwelling units* per acre or greater or has a *land use plan* designation that allows for 20 *dwelling units* per acre or greater and is within one quarter mile of a rail station, not including additional *dwelling units* permitted under this Division, if all of the following requirements are met:
 - (1) The *development* includes *dwelling units* affordable to *very low income*, *low income*, *moderate income* households, in accordance with Section 143.1015(a)(1)-(3) or 143.1015(a)(4) and the following criteria.

- (A) Within the categories of *very low income*, *low income*, and *moderate income* households, affordable *dwelling units* may be further targeted or restricted for senior citizens, as defined in California Civil Code Sections 51.3 and 51.11.
 - (B) Within the *very low income* category, affordable *dwelling units* may be further targeted or restricted 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 McKinney-Vento Homeless Assistance Act.
 - (C) A portion of the total *dwelling units* in the *development* shall be reserved for *very low income*, *low income*, or *moderate-income* households, in accordance with Section 143.1015(a)(1)-(3) or 143.1015(a)(4).
- (2) The *development* includes neighborhood-serving infrastructure amenities, in accordance with Section 143.1020.
- (3) The *dwelling units* within the *development* shall not be used for a rental term of less than 30 consecutive days.
- (b) The regulations in this Division shall not apply to the following types of *development*:
 - (1) *Development* outside of the Centre City Planned District and the mixed-use base zones that propose a total number of *dwelling units* that equates to a residential *density* that is less than 80 percent of the maximum permitted *density* of the applicable base zone(s) or Planned District.
 - (2) Residential *development* within the Centre City Planned District that does not meet the Base Maximum FAR found in Figure H of the Centre City Planned District.
 - (3) *Development* zoned mixed-use that does not meet the maximum *floor area ratio* of the base zone.

- (4) *Development* that proposes to concurrently utilize the *density* bonus provided in Chapter 14, Article 3, Division 7 (Affordable Housing Regulations). Existing *development* that was constructed in accordance with the Affordable Housing Regulations and an *applicant* proposes to construct additional *dwelling units* through a new *development* application may utilize this Division to add *gross floor area* and *density* if the existing *development* was constructed using the maximum *density* bonus available based on the affordability level of the *development*.
 - (5) *Development* located within Proposition A lands.
 - (6) *Development* located within a designated *historical district* or subject to the Old Town San Diego Planned District.
 - (7) *Development* that includes visitor accommodations, except an SRO *hotel*.
- (c) The regulations in this Division may be utilized to add *gross floor area* to an existing *development* through the construction of additional *dwelling units*. The additional *gross floor area* allowed shall be determined as follows:
- (1) The additional *gross floor area* is determined by multiplying the remaining *lot* area (excluding existing landscaping, open space amenities, and sidewalks) by the applicable *floor area ratio* in Section 143.1010(a). The remaining *lot* area is the difference between the *lot coverage* of the existing *development* and the *lot* area.
 - (2) The minimum number of *dwelling units* is determined by multiplying the maximum number of *dwelling units* that could be constructed on the remaining *lot* area by 0.80.
 - (A) For this calculation, the maximum number of pre-*density* bonus *dwelling units* that could be constructed on the remaining *lot* area is calculated by dividing the remaining *lot* area by the maximum permitted *density* under the base zone.
 - (B) If the number calculated for the minimum number of *dwelling units* exceeds a whole number by more than 0.50, the minimum number of *dwelling units* shall be rounded up to the next whole number.

- (d) The regulations in this Division may be utilized to add *gross floor area* for residential *development* to an existing non-residential *development* through the conversion of existing non-residential space to permanent rental or for-sale *dwelling units*.
- (e) The required number of affordable *dwelling units* shall be calculated in accordance with Section 143.1015. For the purposes of calculating the required number of affordable *dwelling units*, all *density* calculations resulting in fractional units shall be rounded up to the next whole number. Existing covenant--restricted affordable *dwelling units* shall not be counted towards the affordable housing requirement in this Division.
- (f) The regulations in this Division shall not supersede the regulations of any other Land Development Code Section, unless specified.

(“*Application of Complete Communities Housing Solutions Regulations*” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)

(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

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§143.1005 Required Replacement of Existing Affordable Units

- (a) An *applicant* is ineligible for any incentive under this Division if the *premises* on which the *development* is proposed contains, or during the seven years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and *families of low income*, or *very low income*, or have been occupied by persons and *families of low income*, or *very low income*, unless the proposed *development* replaces the affordable *dwelling units*, and either:

- (1) Provides affordable *dwelling units* at the percentages set forth in Section 143.1015 (inclusive of the replacement *dwelling units*), or
 - (2) Provides all of the *dwelling units* in the *development* as affordable to *low income* or *very low income* households, excluding any manager's unit(s).
- (b) The number and type of required replacement affordable *dwelling units* shall be determined as follows:
 - (1) For *development* containing any occupied affordable *dwelling units*, the *development* must contain at least the same number of replacement affordable *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 affordable *dwelling units*. For unoccupied affordable *dwelling units* in the *development*, the replacement affordable *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 affordable *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 affordable *dwelling units* shall be provided in that same percentage.
 - (2) If all of the affordable *dwelling units* are vacant or have been demolished within the seven years preceding the application, the *development* must contain at least the same number of replacement affordable *dwelling units*, of equivalent size and *bedrooms*, as existed at the highpoint of those units in the seven-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* and *low income* renter households in the same proportion of *very low income* and *low income* renter households to all renter households within the City of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement *dwelling units* shall be provided in that same percentage.

- (3) All replacement affordable *dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.
- (4) All rental replacement affordable *dwelling units* shall be affordable for at least 55 years. *Very low income*, *low income*, and *moderate income* households located 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*, shall receive priority preference for new covenant-restricted *dwelling units* created under this Division.
- (5) Any existing residents will be allowed to occupy their *dwelling units* until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination. The property owner shall deliver a notice of intent to terminate to the Housing Authority and to each tenant household.
- (6) The *applicant* agrees to provide relocation benefits to the occupants of those affordable residential *dwelling units*, and the right of first refusal for a comparable *dwelling unit* available in the new housing *development* at a rent affordable to *very low income* or *low income* households.
 - (A) The displaced occupants are entitled to payment for actual moving and related expenses that the Housing Authority determines to be reasonable and necessary.
 - (B) For any *very low income*, *low income*, or *moderate income* household displaced by conversion, the *applicant* shall pay to such household an amount in accordance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the California Government Code or the Residential Tenant Protection Regulations located in Chapter 9, Article 8, Division 7, whichever amount of relocation assistance is greater.
- (7) For a *development* located within a Community of Concern, residents living within one mile of the *development* at the time of application shall receive priority for 75 percent of the affordable *dwelling units* in the *development* that are reserved for *very low income*, *low income*, or *moderate income* households.

(“Required Replacement of Existing Affordable Units” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)

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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.

§143.1010 Incentives in Exchange for Sustainable Development Area Affordable Housing and Infrastructure Amenities

An *applicant* proposing *development* that is consistent with the criteria in Section 143.1002 shall be entitled to the following incentives:

- (a) Waiver of the existing *floor area ratio* and a new *floor area ratio* based upon whether the *development* is located in FAR Tier 1, FAR Tier 2, FAR Tier 3, or FAR Tier 4. If a mixed-use *development* is proposed, the *floor area ratio* of the non-residential portion of the *development* shall not exceed the maximum *floor area ratio* of the applicable base zone or Planned District.

Development located within the Coastal Overlay Zone and the Coastal Height Limit Overlay Zone as shown on Map No. C-380, filed in the office of the City Clerk as Document No. 743737, shall be limited to a maximum *floor area ratio* of 2.5, and to a maximum height of 30 feet, with the exception of those areas located within the FAR Tier 1.

- (1) Within FAR Tier 1, there shall be no maximum *floor area ratio* for residential *development*.

- (2) Within FAR Tier 2, the new maximum *floor area ratio* shall be 8.0.
 - (3) Within FAR Tier 3, the new maximum *floor area ratio* shall be 6.5.
 - (4) Within FAR Tier 4, the new maximum *floor area ratio* shall be 4.0.
 - (5) An additional *floor area ratio* bonus of 1.5 shall be added to the maximum *floor area ratio* identified in Section 143.1010(a)(2)-(4) if:
 - (A) At least 10 percent of the total *dwelling units* in the *development* are at least two *bedroom dwelling units*;
 - (B) An additional 10 percent or more of the total *dwelling units* in the *development* are at least three *bedroom dwelling units*; and
 - (C) Each *dwelling unit* is under only one lease agreement per *dwelling unit*.
- (b) Waiver of the maximum permitted residential density of the land use designation(s) in the applicable land use plan. Density shall be limited by the allowable *floor area ratio* and the requirements of the California Building Code as adopted and amended by the City of San Diego.
- (c) Waiver of the following applicable base zone or Planned District regulations:
 - (1) Maximum structure height.
 - (2) Maximum lot area.
 - (3) Street frontage requirements, if safe and adequate access to the premises can be provided to the satisfaction of the City Building Official and the Fire Department.
 - (4) Maximum lot coverage.
 - (5) Floor Area Ratio (FAR) Bonus for Residential Mixed-Use. *Development* utilizing the regulations in this Division shall not be eligible for other FAR or density bonuses.
 - (6) Maximum front setback or street side setback if the maximum is less than 20 feet and the *development* is constructing a promenade, in accordance with Section 143.1020.
- (d) Waiver of any of the following applicable overlay zone regulations:

- (1) Maximum permitted residential density.
 - (2) Outside the Coastal Height Limit Overlay Zone and the Airport Land Use Compatibility Overlay Zone, maximum structure height.
 - (3) The requirement to obtain a Site Development Permit in areas mapped as CPIOZ Type A or CPIOZ Type B, if the *development* complies with the *development* standards or criteria in the applicable community plan. Compliance with the *development* standards or criteria in the applicable community plan does not include compliance with maximum permitted residential density and/or maximum structure height.
- (e) Waiver of the private exterior open space requirement in Section 131.0455 for all *dwelling units* in the *development* if at least 10 percent of the total *dwelling units* in the *development* are at least three *bedroom dwelling units*, and each *dwelling unit* in the *development* is under only one lease agreement per *dwelling unit*.
- (f) Waiver of Development Impact Fees if the *development* provides a residential *density* that is at least 120 percent of the maximum permitted *density* of the applicable base zone or Planned District for the following:
- (1) All covenant-restricted affordable *dwelling units*.
 - (2) All *dwelling units* that do not exceed 500 square feet.
 - (3) All *dwelling units* that contain at least three *bedrooms* that meet the following requirements:
 - (A) The *dwelling units* are covenant-restricted to households earning no more than 150 percent of the area median income; and
 - (B) Each *dwelling unit* is under only one lease agreement.
- (g) Waiver of the Neighborhood Enhancement Fee for *development* that meets the affordable housing requirements set forth by this Division and restricts 100 percent of the *dwelling units*, not including any managers units, to households earning no more than 50 percent of the area *median income*.

- (h) Use of up to five Affordable Housing Incentives. An *applicant* utilizing the regulations in this Division shall be entitled to incentives as described in Section 143.1010(h) 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* in accordance with Section 143.1010(h).
 - (1) An incentive means any of the following:
 - (A) A deviation to a *development* regulation, with the exception of any regulations or requirements of this Division;
 - (B) Any other incentive proposed by the *applicant*, other than those identified in section 143.1010(h)(2), that results in identifiable, actual cost reductions.
 - (2) Items not considered incentives by the City of San Diego include, but are not limited to the following:
 - (A) A waiver of a required permit;
 - (B) A waiver of fees or dedication requirements, except as allowed under Section 143.1010(f);
 - (C) A direct financial incentive;
 - (D) Approval of mixed-use zoning in conjunction with a residential *development*;
 - (E) A waiver of any of the requirements, regulations or standards of this Division.
 - (3) An incentive requested as part of a *development* meeting the requirements of this Division shall be processed according to the following:
 - (A) Upon an *applicant's* request, *development* that meets the applicable requirements of this Division shall be entitled to incentives pursuant to Section 143.1010(h) unless the City makes a written finding of denial based upon substantial evidence, of any of the following:
 - (i) 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;

- (ii) The incentive would have a specific adverse impact upon public health and safety as defined in California 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;
 - (iii) 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
 - (iv) 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.
- (B) The granting of an incentive shall not require a General Plan amendment, zoning change, a *development permit*, or other discretionary approval.
- (C) 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*.
- (4) The number of incentives available are as follows:
 - (A) Two incentives for a *development* that includes at least 20 percent of the *pre-density dwelling units* for lower income households.
 - (B) Three incentives for a *development* that includes at least 30 percent of the *pre-density dwelling units* for lower income households, with at least 20 percent reserved for *very low income* households.

- (C) Four incentives for a *development* in which at least 40 percent of the covenant-restricted *dwelling units* are at least three *bedrooms*.
 - (D) Five incentives for a *development* that includes 100 percent of the total *dwelling units*, exclusive of a manager's unit(s), for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total *dwelling units* in the *development* may be for *moderate income* households, as defined in Section 50053 of the Health and Safety Code.
- (i) Affordable Housing waivers may be granted, except that waivers cannot be used to deviate from the requirements of this Division. An *applicant* utilizing the regulations in this Division shall be entitled to a waiver as described in Section 143.1010(i) 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.
 - (1) 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 this Division.
 - (2) Upon an *applicant's* request, *development* that meets the applicable requirements of this Division shall be entitled to a waiver unless the City makes a written finding of denial based upon substantial evidence, of any of the following:
 - (A) 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;
 - (B) The waiver would have an adverse impact on any real property that is listed in the California Register of Historical Resources;
 - (C) The waiver would be contrary to state or federal law. Requested waivers 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; or

- (D) 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.
- (3) The granting of a waiver shall not require a General Plan amendment, zoning change, *development permit*, or other discretionary approval.
- (4) There is no limit on the number of waivers an *applicant* may request.
- (j) Compliance with the regulations in this Division shall satisfy compliance with the City's Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13, and the *applicant's* affordable housing obligations.

*("Incentives in Exchange for Transit Priority Area Affordable Housing and Infrastructure Amenities" added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)
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§143.1015 Required Provision of Affordable Dwelling Units

- (a) In accordance with Section 143.1002(a)(1), an *applicant* requesting application of the regulations in this Division shall provide a written agreement to provide affordable *dwelling units*, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission and secured by a deed of trust, that meets the following requirements:
- (1) Provides at least 15 percent of rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, for rent by *very low income* households at a cost, including an allowance for utilities, that does not exceed 30 percent of 50 percent of the area *median income*, as adjusted for household size.
 - (2) Provides at least 15 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under the *floor area ratio* bonus, for rent by *moderate income* households, including an allowance for utilities, that does not exceed 30 percent of 120 percent of the area *median income*, as adjusted for household size.
 - (3) Provides at least 10 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under the *floor area ratio* bonus, for rent by *low income* households, including an allowance for utilities, that does not exceed 30 percent of 60 percent of the area *median income*, as adjusted for household size.
 - (4) As an alternative to the requirements in Section 143.1015(a)(1)-(3), an *applicant* may meet one of the following requirements:
 - (A) Provide at least 40 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, for rent by *very low income* households at a cost, including an allowance for utilities that does not exceed 30 percent of 50 percent of the area *median income*, as adjusted for household size; or
 - (B) Provide 100 percent of the total *dwelling units*, excluding any managers units, in the *development* for rent by *low income* households, including an allowance for utilities that does not exceed 30 percent of 60 percent of the area *median income*, as adjusted for household size; or

- (C) Provide 100 percent of the rental *dwelling units* in the *development*, excluding any additional *dwelling units* allowed under a *floor area ratio* bonus, for rent by *moderate income* households at a cost, including an allowance for utilities that does not exceed:
 - (i) 30 percent of 80 percent of the area *median income*, as adjusted for household size for at least 50 percent of the required rental *dwelling units*; and
 - (ii) 30 percent of 120 percent of the area *median income*, as adjusted for household size for the remainder of the required rental *dwelling units*.
- (5) The number of required affordable *dwelling units* for *development* located in FAR Tier 1 shall be determined by multiplying the proposed number of *dwelling units* in the *development* with the maximum base *floor area ratio*, illustrated in Figure H of the Centre City Planned District Ordinance, then dividing by the proposed *floor area ratio* of the *development* and multiplying by the percentages of affordable *dwelling units* required in Section 143.1015(a)(1-3).
- (6) For rental *dwelling units* to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:
 - (A) The affordable *dwelling units* shall be designated be comparable in *bedroom* mix and amenities to the market-rate *dwelling units* in the *development*, as determined by the San Diego Housing Commission, except that the affordable *dwelling units* shall not be required to exceed three *bedrooms* per *dwelling unit*. The affordable *dwelling units* shall have access to all common areas and amenities provided by the *development* if the affordable *dwelling units* are provided in the *development*. The square footage and interior features of the affordable *dwelling units* shall be good quality and consistent with current building standards for new housing in the City of San Diego.

- (B) The affordable *dwelling units* shall remain available and affordable for a period of at least 55 years, unless 100 percent of the *dwelling units* in the *development* are affordable and the *development* is owned and operated by an institution of higher education, including a community or junior college, college or university, or a religious institution-affiliated housing development project, as defined in California Government Code Section 65913.6, in which case the affordable *dwelling units* shall remain available and affordable for a period of at least 25 years.
- (7) As an alternative to the requirements in Section 143.1015(a)(1)-(3) or 143.1015(a)(4) to provide the required rental *dwelling units* onsite, the required rental *dwelling units* may be provided on a different *premises* from the *development* subject to all the following requirements:
 - (A) The required rental *dwelling units* shall be located on a receiver site that is located within:
 - (i) A *Sustainable Development Area*; and
 - (ii) The following Resource Opportunity Areas identified by the California Tax Credit Allocation Committee when the *development* application is *deemed complete*:
 - High Resource Opportunity Areas.
 - Highest Resource Opportunity Areas.
 - Moderate Resource Areas if located in the same community planning area and City Council District, or Moderate Resource Areas within three miles of the *premises* of the *development*.
 - (B) The required affordable *dwelling units* shall be comparable in *bedroom* mix to the market-rate *dwelling units* in the *development* and the affordable *dwelling units* shall have access to generally comparable amenity types offered in the *development*, as reasonably determined by the San Diego Housing Commission. The interior features of the affordable *dwelling units* shall be good quality and consistent with current building standards for new housing in the City of San Diego. Amenities shall meet or exceed California Tax Credit Allocation Committee requirements for common areas and play/recreational facilities, if applicable, as reasonably determined by San Diego Housing Commission.

- (C) The *applicant* shall pay a fee to the “Neighborhood Enhancement Fund,” as established by San Diego Resolution R-313282 (Nov. 17, 2020), calculated based on the square feet of *lot* area for the *development premises* and the *premises* for the receiver site for the required rental *dwelling units*. The fee to the “Neighborhood Enhancement Fund” for the receiver site shall not exceed the amount of the fee for the *development premises*.
 - (D) A final inspection shall not occur for the *development* until a deed of trust for the affordable *dwelling units* located at the receiver site has been entered into by the *applicant* and the President and the Chief Executive Officer of the San Diego Housing Commission.
 - (E) The *applicant* shall record a deed restriction prior to the issuance of the first Building Permit for the *development* that:
 - (i) Documents the required number of affordable *dwelling units* to be provided; and
 - (ii) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows: For new *development*, if the affordable *dwelling units* have not received a certificate of occupancy within 54 months of the issuance of the first Building Permit. For an existing *structure*, if the affordable *dwelling units* have not received a certificate of occupancy within 36 months of the issuance of the first Building Permit.
- (b) Nothing in this Division shall preclude an *applicant* from using affordable *dwelling units constructed* by another *applicant* to satisfy the requirements of this Division, including contracting with an affordable housing developer with experience obtaining tax-exempt bonds, low income housing tax credits, and other competitive sources of financing, upon approval by the San Diego Housing Commission.

(“Required Provision of Affordable Dwelling Units” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)
(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

[Editors Note: Amendments as adopted by O-21416 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 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

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§143.1020 Required Provision of Infrastructure Amenities

In accordance with Section 143.1002(a)(2), an *applicant* requesting application of the regulations in this Division shall provide infrastructure amenities as follows:

- (a) Neighborhood Enhancement Fund. All *developments* shall pay a fee to the “Neighborhood Enhancement Fund”, as established by City Council Resolution R-313282.
- (b) Public promenade alternative. In lieu of the fee described in Section 143.1020(a), *development* on a *premises* of at least 25,000 square feet with at least 200 linear feet of *street frontage* or on a separately-owned parcel within a *Sustainable Development Area* where the *development* is located and with an equivalent-sized *premises* of the *development* or larger with at least 200 linear feet of *street frontage*, may construct public amenities in the form of a public promenade.
 - (1) Prior to the issuance of any Building Permit, the *applicant* shall hold at least two community workshops to provide information and receive feedback on the *development* design.
 - (2) A notice describing the public promenade shall be posted in a prominent and accessible location within a common area of the *development* or parcel adjacent to the promenade where it can be viewed by the public. The notice shall include contact information of the *applicant* and a statement that the public promenade is required pursuant to the San Diego Municipal Code.

- (3) Prior to issuance of a Certificate of Occupancy, the *applicant* shall provide the City Manager documentation that all required on-site public amenities have been constructed and are operational.
- (4) The *applicant* shall record a public recreation easement against all parcels comprising the *premises* of the *development*, to the satisfaction of the City Manager.
- (5) The *applicant* shall record a maintenance agreement ensuring that the required on-site public amenities are maintained in perpetuity.
- (6) *Development* that includes a promenade in accordance with Section 143.1020 shall be exempt from requirements to provide private or common open space for the residential *dwelling units*.
- (7) A promenade is a public open space that adjoins or is visible from a public *right-of-way* along the longest *street frontage*. The promenade shall meet the following standards and will be exempt from Council Policy 600-33.
 - (A) The promenade shall span the length of the longest *street frontage* and shall extend inward from the *property line* abutting the longest *street frontage* at a distance of at least 20 feet.
 - (B) The sidewalk within the *public right-of-way* adjacent to the promenade shall be widened to a minimum of 8 feet, measured perpendicular to the *street*.
 - (C) The promenade shall be publicly accessible from 7:00 a.m. to 7:00 p.m. The promenade shall include landscape designs that provide viewable surveillance, including visibility from surrounding properties, with plantings controlled to allow clear sight lines into the promenade.
 - (D) A minimum of 50 percent of a promenade shall be free of physical barriers or obstructions, such as walls or gates.
 - (E) Garage entrances, driveways, parking spaces, passenger drop-offs, loading berths, trash storage facilities, utility boxes, as well as the access or service for these facilities are not permitted within a promenade.

- (F) Pedestrian circulation paths within the promenade shall connect to all *streets* and building entrances that front the promenade.
- (G) Landscaping shall be provided as follows:
 - (a) At least one, 24-inch box canopy form tree is required for each 25 feet of street frontage on each side of the required sidewalk.
 - (b) At least 15 percent and not to exceed 20 percent of the promenade area shall be comprised of planting, which can include hanging plants, planting beds or living walls.
- (H) Lighting shall be provided to ensure adequate visibility, and the lighting design shall be coordinated with lighting used in the *public right-of-way* and with the building's architectural lighting.
- (I) Wayfinding signage shall be prominently displayed near the *public right-of-way* that directs pedestrians and cyclists to nearby attractions and transit connections. Attractions include recreational facilities, such as *public parks*, trails, or recreation centers; landmarks; and community assets, such as libraries or community centers.
- (J) Seating shall be provided in the promenade. This may be satisfied by providing movable seats, fixed individual seats, benches with or without backs, and design feature seating, such as seat walls, ledges, and seating steps.
- (K) One trash receptacle and one recycling container shall be provided for every 150 feet of *street frontage*.
- (L) At least one of the following recreation amenities must be provided:
 - (i) Playground equipment;
 - (ii) Fitness circuit equipment;
 - (iii) Game equipment, such as a bocce ball court or an oversized chess set;

- (iv) Basketball court (half or full court);
 - (v) Rock climbing wall; or
 - (vi) Skate plaza.
 - (M) At least one of the following additional amenities must be provided:
 - (i) Water feature;
 - (ii) Recreational interactive art installation;
 - (iii) Food and beverage kiosk;
 - (iv) Parkour course;
 - (v) Pump track; or
 - (vi) At least four (4) educational kiosks.
 - (N) Patios, tables, and seating operated by on-site commercial tenants may be included within the promenade, if they are accessible to the public during non-business hours and are limited to no more than 20 percent of the promenade area.
 - (O) Required best management practices (BMPs) for storm water may be constructed within the required landscaped area of the promenade, including within the *public right-of-way*, so long as pedestrian access to and within the promenade is not hindered by the BMPs.
 - (P) The *development* may utilize the *public right-of-way* adjacent to the promenade to implement the standards required in Section 143.1020(b)(7)(I–M). Utilization of the *public right-of-way* is subject to an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715. If the *applicant* is required to remove the amenities within the *public right-of-way*, they shall be replaced within the promenade on the *premises*.
- (8) If site constraints such as topography or the desire to avoid archaeological, tribal, cultural, historical or environmental resources make siting the promenade along the *public right-of-way* infeasible, the promenade may be located on another portion of the *premises*, subject to the following:

- (A) The square footage of the promenade must be equal to or greater than the length of the longest *street frontage* multiplied by 20 and must be contiguous.
- (B) The promenade must comply with Sections 143.1020(b)(7)(C-O).

(“Required Provision of Infrastructure Amenities” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)
(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

[Editors Note: Amendments as adopted by O-21416 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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§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize the waivers provided in Section 143.1010(g) to deviate from the requirements in Section 143.1025.

- (a) Pedestrian Circulation Space. All *development* shall include the following pedestrian circulation improvements:
 - (1) Sidewalk Widening. A sidewalk widening enlarges a pre-existing or required sidewalk to a minimum of 10 feet in width measured perpendicular to the *street*. For a *premises* that is less than 25,000 square feet, an *applicant* may elect to provide a bicycle repair station, a wayfinding sign, public seating, a public drinking fountain or a smart kiosk, in lieu of a sidewalk widening.

- (2) Street trees. At least one, 24-inch box canopy form tree is required for each 20 feet of *street frontage*. The *street frontage* excludes curb cuts and required clearances for designated bus stops. The installed tree spacing and location may be varied to accommodate site conditions or design considerations.
 - (3) Above-ground utility placement within the sidewalk and/or pedestrian path is prohibited.
 - (4) Each *dwelling unit* on the ground *floor* fronting a *public right-of-way* or a private drive shall have a separate ground *floor* entrance or path adjacent to the *public right-of-way* or a private drive.
- (b) Communities of Concern. For all *development* within Communities of Concern, prior to the issuance of any Building Permit, the *applicant* shall hold at least two community workshops to provide information and receive feedback on the *development* design.
- (c) Standards for Buildings over 95 Feet in Height on *Premises* over 20,000 Square Feet in Area. For the purposes of Section 143.1025, bulk and scale are divided into the two main areas of the building base and the tower. Buildings over 95 feet in height located on a *premises* over 20,000 square feet in area shall comply with the following requirements:
 - (1) For a *development* that includes one or more *structures* over 95 feet in height, or *development* which exceeds the height limit of the base zone, whichever is greater, a Neighborhood Development Permit decided in accordance with Process Two is required.
 - (2) For the purposes of Section 143.1025, building base means the *structural envelope* located immediately above *existing grade*, *proposed grade*, or a *basement*. The maximum height of the building base shall be 95 feet.
 - (3) The minimum height of the *street wall* shall be 30 feet, except as required under the Centre City Planned District.
 - (4) A *street wall* shall be provided for 70 percent of the building frontage along the *public right-of-way*, with the following exceptions, which may be subtracted from the length of the frontage:
 - (A) Publicly or privately-owned plazas or promenades;

- (B) Courtyard entrances up to 30 feet wide for residential uses;
 - (C) Recessed entrances up to a maximum of 25 feet in width and a maximum of 15 feet in depth;
 - (D) Entries into interior or auto courts, or auto drop-offs may be allowed behind the required *street wall*; and
 - (E) Areas where the *existing grade* of the *public right-of-way* differs from the building pad by more than two feet.
- (5) For the purposes of Section 143.1025, tower means the *structural envelope* located immediately above the building base to the top of the building.
 - (A) The maximum *lot coverage* of the tower shall be 75 percent of the *lot coverage* of the building base.
 - (B) Within a single *development*, towers shall be separated by a minimum of 50 feet.
- (6) *Development* must comply with the private open space and common open space requirements of the applicable base zone or Planned District.
- (d) Buffer from Adjacent Freeways. *Development*, except for *development* within the Centre City Planned District, on a *premises* within 50 feet of a freeway shall comply with the following:
 - (1) A 10-foot minimum landscaped buffer shall be provided between the residential and commercial uses and the freeway; and
 - (2) Outdoor areas such as patios, parks, plazas, and other common spaces used by residents, customers, or members of the public shall be oriented away from the *freeway*.
- (e) Transition to Adjacent Residential Single-Unit Zones. *Development* on a *premises* directly adjacent to a Residential Single--Unit (RS) zone where an existing *dwelling unit* is located on the adjacent *premises*, shall comply with the following criteria:
 - (1) The height incentive shall be limited to a height increase of up to 3 stories or 33 feet above the height limit of the base zone, whichever is less.

- (2) Incorporate a transition plane in the *development* that does not exceed a 65-degree angle. The transition plane for the *development* shall start from the shared *property line* with the RS zone and extend 1/3 of the *lot* depth.

(“*Supplemental Development Regulations*” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)

(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)

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§143.1030 Division Inapplicability

This Division shall be applicable and effective for all eligible *premises* located in all community planning areas, except for in those community planning areas that contain any portion of a Community of Concern, the Division shall only be applicable and effective until the community planning areas have reached 80 percent of the housing capacity identified for the community planning area in the City's Adequate Sites Inventory in the General Plan Housing Element, as determined by the Planning Director, or nine years from the effective date, whichever is later, unless an extension is approved by the City Council.

*(“Division Inapplicability” added 12-9-2020 by O-21275 N.S.; effective 1-8-2021.)
(Amended 1-27-2022 by O-21416 N.S.; effective 2-26-2022.)*

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