Article 3: Supplemental Development Regulations

Division 13: Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones

(“Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones” added 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

[Editors Note: Amendments as adopted by O-21439 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-21439-SO.pdf]

§143.1301 Purpose of the Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones

These regulations are intended to implement California Senate Bill 9 (2021-2022) and California Government Code Sections 65852.21, 66411.7 and 66452.6 by allowing the construction of multiple dwelling units in single-family zones and/or an urban lot split, as specified in this Division. These regulations specify when and how multiple dwelling unit development may be constructed in a base zone that permits single dwelling unit development, but not multiple dwelling unit development. These regulations also specify when and how a single premise may be split into two premises that can be developed and conveyed separately when located within a base zone that permits single dwelling unit development, but not multiple dwelling unit development.

(“Purpose of the Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones” added 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

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§143.1303 Application of Multi-Dwelling Unit and Urban Lot Split Regulations in Single Dwelling Unit Zones

(a) This Division applies to premises located within a RS, RE, RX, RT and Planned District Zones that permits single dwelling unit development, but not multiple dwelling unit development, except as prohibited in Section 143.1303(b).

(b) This Division is not applicable in the following circumstances:

(1) When the premises is located within any of the following:

(A) Prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;

(B) Wetlands;

(C) The Very High Fire Hazard Severity Zone, unless the development complies with Chapter 7A of the California Building Code, which mitigates wildfire exposure risk through materials and construction methods;

(D) A hazardous waste site that is listed pursuant to California Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the California Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the California State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the Development Services Department;
(F) *Special Flood Hazard Areas*, unless:

(i) The *premises* has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction; or

(ii) The *premises* meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) A regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the *development* has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If an applicant is able to satisfy all applicable federal qualifying criteria in order to provide that the *premises* satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, an application shall not be denied on the basis that the applicant did not comply with any additional City permit requirement, standard, or action that is applicable to that *premises*;

(H) The *MHPA* of the *MSCP Subarea Plan*;

(I) *Environmentally Sensitive Lands* conserved by dedication in fee title, covenant of easement, or conservation easement; or

(J) A *historical district* that is a designated historical resource, or on a *premises* that contains a designated historical resource.

(2) If the *development* requires demolition or alteration of any of the following:

(A) A *dwelling unit* that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate income, low income, or very low income.
(B) A dwelling unit that has been occupied by a tenant in the last three years.

(3) If the premises contains SRO hotel rooms or other dwelling units that were withdrawn from rent or lease in accordance with California Government Code Sections 7060 through 7060.7 during the 15-year period preceding the application.

(4) If the development requires the demolition of more than 25 percent of the existing exterior structural walls of a dwelling unit, unless the premises has not been occupied by a tenant in the last three years prior to application submittal.

(“Application of Multi-Dwelling Unit and Urban Lot Split Regulations in Single Dwelling Unit Zones” added 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

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§143.1305 Utilizing the Provisions of this Division

(a) An applicant seeking to utilize the provisions of this Division may use the multiple dwelling unit provisions of Section 143.1310, the urban lot split provisions of Section 143.1315, or a combination of both in compliance with the applicable regulations.

(b) An application to utilize the provisions of this Division may be denied if the City makes a written finding based upon a preponderance of the evidence that the development would have a specific, adverse impact upon public health and safety or the physical environment and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A specific, adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(1) Inconsistency with a zoning ordinance or land use plan designation.

(2) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code.
(c) This Division may be utilized in conjunction with Accessory Dwelling Unit development consistent with the following regulations:

(1) An applicant utilizing only the multiple dwelling unit provisions of Section 143.1310 and not the urban lot split provisions of Section 143.1315 may construct two attached or detached Accessory Dwelling Units in addition to the two dwelling units permitted in accordance with Section 143.1310.

(A) The Accessory Dwelling Units shall comply with the regulations in Section 141.0302, except that no more than two Accessory Dwelling Units shall be permitted on the premises.

(B) Under no circumstances shall the total number of dwelling units on the lot, inclusive of Accessory Dwelling Units, exceed four.

(2) An Accessory Dwelling Unit or Junior Accessory Dwelling Unit shall not be permitted on a premises that proposes to utilize or has utilized both the multiple dwelling unit provisions of Section 143.1310 and the urban lot split provisions of Section 143.1315.

(A) If an Accessory Dwelling Unit or Junior Accessory Dwelling Unit exists on a premises that proposes to utilize the provisions of both Section 143.1310 and 143.1315, the Accessory Dwelling Unit must be removed or converted to one of the multiple dwelling units permitted under Section 143.1310.

(B) Under no circumstances shall the total number of dwelling units across the two lots resulting from Section 143.1315 exceed four.

(“Utilizing the Provisions of this Division” added 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

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§143.1307 Rental of Dwelling Units Constructed in Accordance with this Division

A dwelling unit constructed in accordance with this Division shall not be rented for fewer than 31 days.

("Rental of Dwelling Units Constructed in Accordance with this Division" added 3-11-2022 by O-21439 N.S.; effective 4-10-2022.)

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§143.1310 Construction of Multiple Dwelling Units in a Single Dwelling Unit Zone

Up to two dwelling units may be permitted on a premises within a RS, RE, RX, RT and Planned District Zones that permits single dwelling unit development, but not multiple dwelling unit development, in accordance with the following regulations:

(a) The development regulations of the base zone in which the premises is located shall apply, except as specified in this section.

(1) Density Regulations. The maximum permitted density shall be two dwelling units per lot. The dwelling units may be attached to or detached from one another, provided that the structure(s) meet California Building Code safety standards and are constructed sufficiently to allow separate conveyance.

(2) Setback Regulations

(A) No setback is required for an existing structure that is converted to a dwelling unit. In addition, a dwelling unit that is constructed in the same location and within the same building envelope as an existing structure may continue to observe the same setbacks as the structure it replaced.

(B) Except as provided in Section 143.1310(a)(2), dwelling units must comply with the front yard and street side yard setbacks of the base zone. Interior side yard and rear yard setbacks for dwelling units shall be provided as follows:

(i) One-story dwelling units with a structure height of 16 feet or less may have zero setbacks in the interior side yards and rear yards.
(ii) One-story dwelling units with a structure height that exceeds 16 feet and multi-story dwelling units may have zero setbacks in the interior side yards and rear yards, unless the side or rear property line abuts another premises that is residentially zoned or developed with exclusively residential uses, in which case a 4-foot setback shall apply.

(3) Parking Regulations

(A) Within a transit priority area, no off-street parking spaces are required.

(B) Outside of a transit priority area, off-street parking spaces shall be provided as follows:

(i) One off-street parking space per dwelling unit shall be required for the construction of the third and fourth dwelling units. Off-street parking spaces are not required for the first two dwelling units.

(ii) Within the Beach Impact Area of the Parking Impact Overlay Zone, one off-street parking space shall be required per dwelling unit unless the applicant can demonstrate to the satisfaction of the City Manager that there is access to a car share or other shared vehicle within one block of the premises.

(4) Landscape Regulations

(A) Two trees shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises. This regulation can be met by existing trees on the premises. If planting of a new tree is required to comply with this section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City’s Street Tree Selection Guide.

(B) If development would result in more than two dwelling units within the two premises permitted by this Division, then compliance with the street tree regulations pursuant to Section 142.0409 is required.
Supplemental Regulations within Areas of Future Sea Level Rise

(A) Within the Coastal Overlay Zone, the following regulations apply to dwelling units constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (within a 75-year horizon) as determined by the City Manager based on the most current sea level rise vulnerability maps:

(i) The dwelling units shall comply with the regulations in Section 143.0146(c) and if applicable, Section 143.0146(g). The base flood elevation utilized, and the applicability of Section 143.0146(g), shall be based on the FIRM Zone of the Special Flood Hazard Area in closest proximity to the premises on which the dwelling unit is proposed. The permit requirements of 143.0110(b) and other regulations of Chapter 14, Article 3, Division 1 do not apply.

(ii) Hard shoreline armoring shall not be constructed to protect dwelling units from the effects of sea level rise.

(iii) The record owner of the dwelling unit shall, in a form that is approved by the City, acknowledge the following: (1) that the dwelling unit is located in an area of future sea level rise that may become hazardous in the future; (2) that sea level rise could render it difficult or impossible to provide services to the premises; (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the development approval does not permit encroachment onto public trust land; (4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified Local Coastal Program; and (5) that the dwelling unit may be required to be removed or relocated and the site restored if it becomes unsafe; and further the record owner shall waive any rights under Coastal Act Section 30235 and related Local Coastal Program policies to any hard shoreline armoring to protect the dwelling unit.

(iv) The record owner of the dwelling unit shall provide notice to all occupants, upon occupancy, of the dwelling unit of the provisions in Section 143.1310(a)(5)(A)(iii).
(6) Development Impact Fees for development constructed in accordance with this Division shall comply with Section 142.0640(b).

(b) Notwithstanding Section 143.1310(a), a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on a premises with an existing or proposed dwelling unit, regardless of non-compliance with one or more development regulations. The development shall comply with the floor area ratio of the underlying base zone unless the development incorporates an existing structure that exceeds the allowable floor area ratio or is under the allowable floor area ratio by less than 800 square feet, in which case a second dwelling unit that does not exceed 800 square feet shall be permitted.

(“Construction of Multiple Dwelling Units in a Single Dwelling Unit Zone” added 3-11-2022 by O–21439 N.S.; effective 4-10-2022.)

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§143.1315 Urban Lot Splits in a Single Dwelling Unit Zone

An urban lot split is a lot split that divides an existing single premises into no more than two separately conveyable premises in a zone that allows single dwelling unit development, but not multiple dwelling unit development, and may be permitted, subject to the following regulations:

(a) An urban lot split shall be permitted in accordance with a Process One parcel map and shall comply with Chapter 14, Article 4, Division 2, except that dedications of public rights-of-way or the construction of offsite improvements for the parcels being created and the correction of nonconforming development regulations of the base zones are not required.

(b) The expiration of the subdivision shall be in accordance with Government Code Section 66452.6.

(c) The urban lot split provisions of this section may not be used if any of the following apply:

(1) The lot was established through a prior urban lot split in accordance with this section. A lot may only be split once in accordance with this section. Lots created pursuant to this section are ineligible for any further subdivision.
The record owner or any person acting in concert with the record owner has previously subdivided an adjacent lot using an urban lot split in accordance with this section.

Only residential uses are permitted on a lot that was created by the urban lot split provisions of this section.

Prior to the recordation of the parcel map, the record owner shall sign an affidavit acknowledging the record owner intends to reside in one of the dwelling units as their primary residence for a minimum of three years from the date of the approval of the urban lot split. The affidavit shall be in a form that is approved by the City and recorded in the Office of the County Recorder. This requirement shall not apply to a record owner that is a community land trust, as defined in California Revenue and Taxation Code Section 402.1(a)(11)(C)(ii), or is a qualified nonprofit corporation as described in California Revenue and Taxation Code Section 214.15.

The development regulations of the base zone in which the lot is located shall apply, except as specified in Section 143.1310(a) and this section.

The minimum lot area and minimum lot dimensions regulations of the base zone shall not apply and are replaced with the following regulations:

(A) The two lots shall be approximately equal in size, provided that one lot shall not be smaller than 40 percent of the lot area of the original lot.

(B) The two lots shall each be no smaller than 1,200 square feet.

(C) If the lot contains existing structures that will remain as part of the development, the lot shall be split in a manner that complies with or comes as close as possible to compliance with the floor area ratio of the underlying base zone, consistent with Section 143.1315(f)(1)(A) and (B).

A lot should be subdivided in a manner that complies with the street frontage and driveway width requirements of the base zone wherever feasible. Development that does not comply with the street frontage and driveway width requirements of the base zone shall record an access easement on the lot to the satisfaction of the City Engineer.
(g) Notwithstanding Section 143.1315(f), an urban lot split and construction of a second dwelling unit with a maximum gross floor area of 800 square feet shall be permitted on each of the lots created by an urban lot split, regardless of non-compliance with one or more development regulations, subject to the following:

(1) The development shall comply with the floor area ratio of the underlying base zone unless the development incorporates an existing structure that exceeds the allowable floor area ratio or is under the allowable floor area ratio by less than 800 square feet, in which case a second dwelling unit that does not exceed 800 square feet shall be permitted.

(2) The development shall comply with the lot size requirements in Section 143.1315(f)(1).

(“Urban Lot Splits in a Single Dwelling Unit Zone” added 3-11-2022 by O-21439 N.S.; effective 4-10-2022.)

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