

27. Direct the Housing Advisory Commission to review two policy opportunities related to Accessory Dwelling Units (ADUs), an affordable ADU bonus program and condominium conversion of ADUs, and take related actions ()



## County of Santa Cruz Board of Supervisors

### Agenda Item Submittal

**From:** Board of Supervisors - First District

**Subject:** Accessory Dwelling Unit Policies

**Meeting Date:** April 29, 2025

**Formal Title:** Direct the Housing Advisory Commission to review two policy opportunities related to Accessory Dwelling Units (ADUs), an affordable ADU bonus program and condominium conversion of ADUs, and take related actions

### Recommended Actions

1. Direct the Housing Advisory Commission to review two policy opportunities related to Accessory Dwelling Units (ADUs), an affordable ADU bonus program and condominium conversion of ADUs; and
2. Report back to the Board with recommendations to the Board of Supervisors on how to proceed, no later than August 19, 2025.

### Executive Summary

Accessory Dwelling Units (ADUs) have proven to be an essential strategy in addressing Santa Cruz County's housing crises. The City of San Diego has an Affordable ADU Bonus Program and the City of San Jose recently implemented Assembly Bill 1033 (AB 1033) allowing for the condominium conversion and sale of ADUs separately from the primary dwelling unit. The County's Housing Advisory Commission should review these policies and provided a recommendation on whether they should be implemented in Santa Cruz County.

### Discussion

The purpose of the Housing Advisory Commission (HAC) is to provide recommendations to the Board of Supervisors regarding housing. This memo specifically requests that the HAC consider 1) Condominium Conversion of ADUs (AB 1033 Implementation) and 2) Multiple ADUs on Single-Family Parcels (Affordable ADU Bonus Program) and report back with a recommendation on their adoption to ensure that the County remains proactive in expanding housing access.

### Financial Impact

The recommended action does not have a financial impact

### Strategic Initiatives

Operational Plan - Attainable Housing

### Submitted By:

Manu Koenig, First District Supervisor

### Recommended By:

Carlos J. Palacios, County Executive Officer

### Artificial Intelligence Acknowledgment:

Artificial Intelligence (AI) did not significantly contribute to the development of this agenda item.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING VARIOUS SECTIONS OF TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE TO: (1) AMEND CHAPTER 20.30 TO INCLUDE AMENDMENTS TO (A) SECTION 20.30.400, TO CLARIFY PEDESTRIAN ACCESS; (B) SECTION 20.30.500, TABLE 20-70, NOTE 2, TO EXCLUDE RETAINING WALLS FROM ACCESSORY STRUCTURES ALONG CORNER LOT SETBACK; AND (C) SECTION 20.30.510 TO CLARIFY REAR YARD COVERAGE; (2) AMEND CHAPTER 20.70, SECTION 20.70.100, TABLE 20-140 TO ALLOW INDOOR SALES OF ZERO EMISSION VEHICLES, AND ADD SECTIONS 20.70.110, 20.70.120, AND 20.70.130 WHICH HAD BEEN INADVERTENTLY DELETED; (3) AMEND SECTION 20.80.175 AND ADD A NEW PART 2.76 OF CHAPTER 20.80 TO ALLOW THE SALE AND CONVEYANCE OF ACCESSORY DWELLING UNIT CONDOMINIUMS; (4) AMEND CHAPTER 20.90, SECTION 20.90.060 TO INCLUDE PREVIOUSLY APPROVED RATIOS FOR LONG-TERM AND SHORT-TERM BICYCLE SPACES, AND ADD SECTION 20.90.150 WHICH HAD BEEN INADVERTENTLY DELETED; (5) AMEND SECTIONS 20.195.010, 20.195.020, 20.195.030 AND 20.195.050 OF CHAPTER 20.195 TO INCLUDE RECENT REFERENCES TO GOVERNMENT CODE SECTIONS FOR HOUSING; AND (6) AMEND SECTION 20.200.1265 OF CHAPTER 20.200 TO CHANGE EXISTING DEFINITION OF 'PERMANENT SUPPORTIVE HOUSING'; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE**

**WHEREAS**, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "FEIR"), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the "SEIR"), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.30.400 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.30.400 Setback Areas - Setback Area to be Kept Open, Unobstructed, and Unoccupied**

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two feet into the air space above the surface of the ground in any setback area;
- B. In the R-1-2, R-1-1 and R-1-RR districts only, sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than four feet into the air space above the surface of the ground in any setback area;
- C. Any portion of a building including but not limited to bay windows, chimneys, or architectural elements that project out from the primary surface of the building facade, whether on a foundation or cantilevered, not occupying in the aggregate more than twenty percent of the length of the side of the building, may project horizontally for a distance of not more than two feet into any setback area, provided that such extensions maintain a minimum side setback of at least three feet and a minimum rear setback of at least ten feet;
- D. Tankless water heaters and power inverters may project horizontally for a distance of not more than two feet into any setback area;
- E. Wells for basement windows or stairs of up to ten feet in length each, not occupying in the aggregate more than twenty percent of the length of the side of the building

on which they are located, may project horizontally for a distance of not more than two feet into the side and rear setback areas, provided that such extensions maintain a minimum side setback of three feet and a rear setback of fifteen feet;

- F. Overhead wires necessary for utility service to a building on the lot;
- G. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical and other utility needs of the lot or of a building on the lot;
- H. Walks and driveways for vehicular or pedestrian access to the lot that are situated in any setback area ~~which abuts upon a public street shall be not more be higher than two feet above grade nor more than one foot below grade~~; and
- I. Mechanical equipment, including but not limited to, pool equipment and HVAC equipment, may be placed in the rear setback and shall maintain a five-foot setback from the rear property line, maintain a setback from the side property line a distance equal to that of the side setback requirements of the respective zoning district, and adhere to the required front setback of the respective zoning district.

SECTION 2. Section 20.30.500 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.30.500 Development Standards**

- A. All accessory buildings and accessory structures in the residential zoning districts shall conform to the development regulations set forth below in Table 20-70.
- B. When the right column of Table 20-70 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply.

**Table 20-70  
Accessory Buildings and Structures Development Regulations**

<b>Front Setback (feet)</b>		
Retaining walls	None	
Swimming pool, built-in	30	
Detached garage on a lot with two intersecting front property lines	25	Note 1

Detached garage with a maximum length of twenty feet that maintains a minimum side setback of five feet	45	
All other accessory buildings and structures	60	
<b>Side Setback (feet)</b>		
Swimming pool, built-in		
Interior lot	5	
Corner lot	9	
All other accessory buildings and structures	None	Notes 2, 3, 8
<b>Rear Setback (feet)</b>		
Swimming pool, built-in	5	
All other accessory buildings and structures	None	Notes 2, 3, 8
<b>Height (feet)</b>		
Retaining wall	2	Note 4
All other accessory buildings and structures	12	
Maximum number of stories	1	
<b>Area (square feet)</b>		
Maximum size (cumulative square feet)	650	Notes 5, 6, 7

**Notes:**

1. Measured from front property line which is opposite the designated side property line.
2. On a corner lot, no accessory buildings, or accessory structures, excluding fences and retaining walls, shall be built within ten feet of the side property line of adjacent to the street side.
3. With respect to accessory buildings or accessory structures, where any such building or structure is proposed to be constructed on a corner lot which abuts upon a key lot which is for residential use, such building or structure shall be set back not less than four feet from the rear lot line of such lot, provided that the setback for swimming pools shall not, in any event, be reduced to less than five feet.
4. Maximum height of two feet measured from existing grade, unless a greater height is otherwise approved with a Special Use Permit, pursuant to Chapter 20.100, Part 7 development permit.
5. The size of an individual accessory building or accessory structure or the total aggregate square footage of all accessory buildings and accessory structures built on any property may be increased to exceed six hundred fifty square feet only pursuant to a special use permit, as provided for in Chapter 20.100 of this ~~§~~ Title.
6. For purposes of this ~~s~~ Section, the calculation of square footage shall not include any square footage of an accessory building or accessory structure that is entirely below grade.
7. Per Section 20.200.020, an accessory building shall not contain living space or sleeping quarters, and shall be limited to two plumbing connections to serve an appliance or fixture, and unconditioned space as defined in Title 24 of the San José Municipal Code.
8. Increased setbacks may be required based upon fire and life safety requirements in this Code.

SECTION 3. Section 20.30.510 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.30.510 Rear Yard Coverage**

- A. The cumulative total of the rear yard covered by any part of accessory buildings and accessory structures (not including built-in swimming pools) built in the rear yard shall not exceed 40% (forty percent), of which accessory buildings cannot exceed 30% (thirty percent). For the purposes of this Section, eave projections of up to two feet will not be counted towards rear yard coverage for an accessory building and accessory structure.
- B. The cumulative total of the rear yard covered by any part of a built-in swimming pool shall not exceed 60% (sixty percent). In calculating the maximum allowable rear yard coverage for a built-in swimming pool, the cumulative total of any part of any accessory building(s) and structure(s) shall be added to the area of the built-in swimming pool.

SECTION 4. Section 20.70.100 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.70.100 Allowed Uses and Permit Requirements**

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Permitted" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the general plan, as amended, with a land use designation that allows some residential use, are indicated by a "PGP " on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only in compliance with the general plan land use restrictions related to residential use.
- C. "Conditional" uses requiring planning commission approval as the initial decision-making body are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the Planning Commission, or City Council on appeal, as set forth in Chapter 20.100.
- D. "Conditional" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the General Plan, as amended, with a land use designation that allows some residential use, are indicated by a "CGP " on Table 20-140. These uses may be

allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100; and in compliance with the General Plan land use restrictions related to residential use.

- E. "Special" uses are indicated by an "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- F. "Special" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the General Plan, as amended, with a land use designation that allows some residential use, are indicated by an "SGP" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100; and in compliance with the General Plan land use restrictions related to residential use.
- G. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- H. "Restricted" land uses are indicated by an "R" on Table 20-140. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- I. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- J. The column of Table 20-140, under the heading "Additional Use Regulations for the Ground Floor Active Use Area Overlay", identifies further regulations on the uses of ground-floor building space within a portion of the DC zoning district. The portion of the DC downtown primary commercial district included in the Active Use Area Overlay is described in Section 20.70.520.
- K. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

**Table 20-140  
Downtown Zoning Districts Use Regulations**

Use	Zoning District		Applicable Notes & Regulations	
	DC	DC-NT1	Additional Use Regulations for the AUA Overlay	Applicable to All Downtown Districts
<b>Offices and Financial Services</b>				
Automatic teller machine	P	P	P	Note a; Section 20.80.200
Business support use	P	P	P	
Financial services	P	P	P	Note b
Retail bank	P	P	P	Note b
Offices, business and administrative	P	P	S	Section 20.70.110
Payday lending establishment	R	R	-	Part 12.5, Chapter 20.80; Section 20.200.875
Research and development	P	P	-	

<b>General Retail</b>				
Alcohol, off-sale— beer and/or wine only	C	C	C	Section 20.80.900
Alcohol, off-sale— full range of alcoholic beverages	C	C	C	Section 20.80.900
Alcohol, off-sale— as incidental to a winery, brewery, or distillery	A	A	A	Note 11; Part 5.75, Chapter 20.80
Food, beverages, and groceries	P	P	P	
Outdoor vending	A	A	A	Note b; Part 10, Chapter 20.80
Outdoor vending— fresh fruits and vegetables	P	P	P	Note b; Part 10, Chapter 20.80
Pawn shop or pawn broker, incidental to a retail jewelry store	C	C	C	Note b; Chapter 6.52
Retail bakery	P	P	P	

Retail art studio	P	P	P	
Retail sales, goods, and merchandise	P	P	P	Note c
Seasonal sales	P	P	P	Part 14, Chapter 20.80
<b>Agriculture</b>				
Certified farmers' market	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	P	P	
<b>Education and Training</b>				
Day care center	P	P	P	Note b
Instructional art studios	P	P	P	
Private instruction, personal enrichment	P	P	P	Note b

School, elementary—grades K-8 (public or private -)	C	C	C	Note b
School, secondary—grades 9-12 (public or private)	C	C	C	Note b
School, post-secondary	P	P	-	
School, trade and vocational	P	P	P	Note b
<b>Entertainment and Recreation Related</b>				
Arcade, amusement game	P	-	P	Note b
Health club, gymnasium	P	P	P	
Lighting display	A/S	A/S	A/S	Section 20.70.150
Theater, indoor	P	P	P	
Poolroom/billiards establishment	P	-	P	

Private club or lodge	P	P	-	
Recreation, commercial/indoor	P	P	P	
<b>Food Services</b>				
Banquet—facility	P	P	P	
Caterer	P	P	P	Note b
Drinking establishments	S	C	S	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-	CC	Note 5
Drinking establishments interior to a full-service hotel or motel with 75 or more guest rooms	P	P	-	Section 20.80.475

Public eating establishments	P	P	P	Note 7
Public eating establishment in conjunction with a winery, brewery, or distillery	P	P	P	
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A	S	A	Part 5.75, Chapter 20.80
Taproom or tasting room with off-sale of alcohol	A	A	A	Part 5.75, Chapter 20.80
<b>General Services</b>				
Bed and breakfast inn	P	P	P	Note b; Part 2, Chapter 20.80
Hotel or motel	P	P	P	
Laundromat	P	P	P	Note b
Maintenance and repair of small household appliances	P	P	P	Note b

Personal services	P	P	P	Note d
Printing and publishing	P	P	P	Note b and Note f
<b>Health and Veterinary Services</b>				
Animal grooming	P	P	P	Note b
Animal boarding, indoor	P	P	P	Note b
Cannabis retail storefront	R	R	R	Part 9.75, Chapter 20.80
Emergency ambulance service	C	-	-	
Hospital/in-patient facility	C	-	-	
Medical cannabis dispensary	R	R	R	Part 9.75, Chapter 20.80
Office, medical	P	P	P	Note b
Veterinarian	P	P	P	Note b

Historic Reuse				
Historic landmark structure reuse	S	S	S	Part 8.5, Chapter 20.80
Public, Quasi-Public and Assembly Uses				
Auditorium	C	-	C	
Church/religious assembly	P	P	-	
Information center	P	P	P	
Museums and libraries	P	-	P	
Parks, playgrounds, or community centers	P	P	S	
Recycling Uses				
Reverse vending machine	S	S	-	Part 13, Chapter 20.80
Small collection facility	S	S	-	Part 13, Chapter 20.80

Residential GP				
Residential shelter	CGP	-	-	Note e
Live/work uses	PGP	SGP		Note e; Section 20.70.120
Low barrier navigation center	PGP	PGP	-	Chapter 20.195
Permanent supportive housing	PGP	PGP	-	Chapter 20.195
Residential, multiple dwelling	PGP	PGP	-	Note 12, Note 13, and Note e
Co-living community	S	S	-	Note e; Part 3.75, Chapter 20.80
Residential care facility for seven or more persons	CGP	CGP	-	Note e
Residential services facility, for seven or more persons	CGP	CGP	-	Note e
Hotel supportive housing	CGP	CGP	-	Note 9 and Note e; Part 22 of Chapter 20.80

Single room occupancy (SRO) living unit facility	SGP	SGP	-	Note 12 and Note e; Part 15, Chapter 20.80
Single room occupancy (SRO) residential hotel	S	S	-	Note 12 and Note e; Part 15, Chapter 20.80
<b>Residential Accessory Uses GP</b>				
Accessory buildings and accessory structures	PGP	PGP	-	Note 1
<b>Transportation and Communication</b>				
Community television antenna systems	C	-	-	
Off-site and alternating use parking arrangements	P	P	P	<del>Section 20.90.200</del>
Off-street parking establishment	P	P	-	
Short term parking <del>lot</del> for uses or events other than on-site	S	S	-	

Radio and television studios	P	-	-	
Wireless communications antenna	S	-	-	Note 8; Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	-	-	Note 8; Sections 20.80.1900, 20.80.1915
<b>Utilities, Power Generation</b>				
Private electrical power generation facility	C	C	-	
Solar photovoltaic power system	P	P	-	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	-	
Temporary stand-by/backup generators	P	P	-	

Vehicle Related Uses				
Car wash, detailing	P	-	-	
Fuel service station or charge station, no incidental service or repair	P	-	-	Note 6
Fuel service station or charge station, with incidental service and repair	P	-	-	Note 2
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	Note 3
<u>Sale and lease, Zero Emission Vehicles and equipment</u>	<u>P</u>	<u>=</u>	<u>=</u>	<b>Note 310</b> <u>Zero Emission Vehicles and Equipment Defined by California Vehicle Code Title 75</u>
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	Note 4

Sale, vehicle parts, new	P	-	-		
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**Notes applicable to the Downtown Primary Commercial (DC) Zoning District,  
including the Active Use Area Overlay:**

1. No Lot may be used solely for an Accessory Structure or Accessory Building.
2. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries, and accessories installation. Does not allow body repair or painting.
3. ~~All activity must be conducted indoors.~~ Outdoor vehicle display, storage, sales, or service is not permitted.
4. Non-engine and exhaust-related service and repair allowed as incidental use.
5. Maximum occupancy load shall be that maximum occupancy load determined by the City fire marshal.
6. Pedestal Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all Downtown Zoning Districts.
7. Includes on-site outdoor dining area(s).
8. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
9. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
10. ~~Repealed. Outdoor storage of inventory vehicles is permitted only if the parking spaces are fully screened and located at a minimum setback of one hundred fifty (150) feet from the front property lines. The maximum number of parking spaces is limited to fifteen percent (15%) of all parking and paved areas or a maximum outdoor storage area of five thousand (5,000) square feet, whichever is more restrictive. Any other outdoor vehicle display, storage, sales, or service is not permitted. Notwithstanding this provision, one new vehicle may be displayed on a paved area outside of any on-site parking area, provided the display vehicle is not located within the public right-of-way and does not extend past the front of any on-site buildings.~~

11. Off-sale limited to items produced on-site otherwise a Conditional Use Permit is required.
12. Transitional Housing may be allowed as any residential housing type using the permit process for such housing type.
13. 100% deed-restricted affordable housing is a permitted use for residential housing type, and commercial space requirements shall not apply; subject to conformance with General Plan policies and state law mandates. Refer to Chapter 20.195 for information regarding the ministerial approval process.

**Notes applicable to the Active Use Area Overlay only:**

- a. Automatic Teller Machines must be a secondary use and must be architecturally integrated into the building on which they are placed. Automatic Teller Machines may not be standalone structures. Use may not be an ATM vestibule lobby.
- b. Not permitted in corner tenant spaces. Corner tenant spaces are defined as storefronts that extend up to or beyond 30 feet along the street in either direction from the intersection.
- c. Second-hand stores not dealing primarily in antiques, artworks, or vintage clothing require a Special Use Permit.
- d. Excludes check-cashing services and bail bond services.
- e. A residential pedestrian entry portal not exceeding 25 feet in length is permitted in the Ground Floor Active Use Area.
- f. Only if dedicated primarily to on-site retail customer copy services, otherwise not Permitted.

**SECTION 5.** Section 20.70.110 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**20.70.110 Development Within or Adjacent to Historic Landmarks or Districts**

- A. Any project within a Historic District shall conform to applicable guidelines adopted, and as amended by the City Council.**
- B. For purposes of this Section, "Historic District" and "Historic Landmark" refer to any site, building, structure, or area that has received city, state or federal landmark status.**

C. New structures exceeding one hundred fifty (150) feet and an FAR of 6:1 which are constructed within one hundred (100) feet of a City Landmark or Contributing Structure in a designated landmark district shall be reviewed by the Historic Landmarks Commission prior to consideration or approval of a development permit for new construction. The comments of the Historic Landmarks Commission shall be included in any development permit staff report subsequently presented to the Director of Planning, Building and Code Enforcement, Planning Commission or City Council.

**SECTION 6.** Section 20.70.120 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**20.70.120 Live/Work Units**

All live-work uses in the Downtown Zoning Districts shall be subject to all of the following criteria:

- A. All work activities shall be limited to the permitted uses of the Downtown Zoning Districts adopted, and as amended by the City Council.
- B. All work activities and storage shall take place in fully enclosed areas.
- C. Prohibited Uses:
  - 1. Any use not permitted within the Downtown Zoning Districts, as specified in Table 20-140 or under Section 20.80.720 for home occupation uses.
  - 2. Entertainment, drinking and public eating establishments.
  - 3. The sale of food and/or beverages.
  - 4. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.
  - 5. Storage or recycling, except as incidental to and in support of a permitted use in the Downtown Zoning Districts.
  - 6. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
  - 7. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through

vertical separation between the living units, greater than those generated by routine household activities.

D. The living unit must be occupied by an owner, employee, or volunteer of the business associated with the live/work unit.

E. All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site.

**SECTION 7.** Section 20.70.130 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**20.70.130 Incidental Use, Residential**

Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 of a Live/Work Unit or Multiple Dwelling is a permitted incidental use of the dwelling.

**SECTION 8.** Section 20.80.175 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.80.175 General**

Pursuant to Section ~~65852.2 (a)~~ 66314 of the Government Code, this Section provides for the creation of Accessory Dwelling Units in areas zoned to allow single-family or multifamily dwelling residential use. An Accessory Dwelling Unit that conforms to all applicable requirements shall not be considered to exceed the allowable density for the lot upon which it is located and is deemed to be a residential use that is consistent with the existing General Plan and Zoning designations for the lot.

Pursuant to Section ~~65852.2 (e)~~ 66321 of the Government Code and notwithstanding any provisions stated in the streamline approval process or any other provision of this Title to the contrary, Accessory Dwelling Units shall be allowed pursuant to the provisions of this Part:

- A. Zoning District. An Accessory Dwelling Unit that is attached to or detached from a one-family dwelling shall be permitted on a lot, consisting of an existing single-family and multi-family dwelling unit.
- B. Number of Units Allowed.
  - 1. Single-Family.

On lots that contain an existing or proposed single-family dwelling, one (1) attached or one (1) detached Accessory Dwelling Unit, and one (1) Junior Accessory Dwelling Unit may be created in any order totaling two (2) units.

2. Multifamily.

On lots that contain an existing or proposed multifamily dwelling structure, one (1) attached or one (1) detached Accessory Dwelling Unit is allowed per lot.

C. Density. An Accessory Dwelling shall not be included in calculation of residential density for the purpose of determining General Plan conformance.

D. Development Standards.

1. Maximum Floor Area. The Accessory Dwelling Units shall comply with all of the following:

- a. If there is an existing primary dwelling, the total floor area of an attached Accessory Dwelling Unit shall not exceed fifty percent (50%) of the existing primary dwelling.
- b. One thousand (1,000) square feet for an Accessory Dwelling on a lot with an area of up to nine thousand (9,000) square feet.
- c. One thousand two hundred (1,200) square feet for an Accessory Dwelling on a lot with an area greater than nine thousand (9,000) square feet.
- d. No maximum for conversion of an existing detached Accessory structure into an Accessory Dwelling Unit.

Table 20-55

<u>Lot size</u>	<u>Maximum floor area</u>
Up to 9,000 square feet	1,000 square feet
Greater than 9,000 square feet	1,200 square feet

2. Height.

- a. A detached one-story Accessory Dwelling shall be limited to a maximum height of eighteen (18) feet.
  - b. A detached two-story Accessory Dwelling shall be limited to a maximum roof height of twenty-five (25) feet above grade.
  - c. A detached Accessory Dwelling shall not exceed two (2) stories.
  - d. An attached Accessory Dwelling shall be limited to a maximum roof height of twenty-five (25) feet above grade and not exceed two (2) stories.
3. Setbacks.
- a. Front setback: Front setback of the zoning district, unless such setback prohibits an eight hundred (800) square foot Accessory Dwelling Unit.
  - b. Side setback: 0 feet
  - c. Rear setback: 0 feet
  - d. Existing structures converted into an Accessory Dwelling Unit may maintain existing setbacks.
  - e. Second Story Accessory Unit - A minimum setback of four (4) feet from the side and rear lot lines, with an overhang of one (1) foot or less, shall be required for any second story of a detached Accessory Dwelling.
  - f. Additional setback requirements may apply under the Building and Fire Codes or as a result of "no-build" easements or require compliance with existing easement restrictions.
4. Required Facilities.

An Accessory Dwelling shall include all of the following facilities:

- a. A kitchen (including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop that meet Building Code standards); and

- b. A full bathroom (including sink, toilet, and shower and/or bath facilities).
5. Siting.
- a. An attached Accessory Dwelling shall share a common wall with the One-Family or multiple family Dwelling or shall share an integral roof structure having the same framing system and roof covering as the One-Family or multiple family Dwelling and shall be separated from the One-Family or multiple family Dwelling by no more than ten (10) feet at any given point.
  - b. A detached Accessory Dwelling shall be located in the rear yard of the lot of the One-Family Dwelling or shall be required to meet minimum setback requirements for an Accessory Building in accordance with Section 20.30.500, except that a new detached Accessory Dwelling Unit that maintains a minimum interior side setback of four (4) feet may be located at a distance of forty-five (45) feet from the front property line.
  - c. A detached Accessory Dwelling shall be located at least six (6) feet away from the One-Family or multiple family Dwelling.
  - d. A detached Accessory Dwelling may be attached to an existing or proposed accessory building, including a garage so long as current Building Code requirements and requirements to address fire or safety hazards are met. A detached Accessory Dwelling that is attached to an existing or proposed accessory building, including a detached Accessory Dwelling constructed above an existing or proposed Accessory Building or basement, shall not have any connecting opening between the Accessory Building and Accessory Dwelling, unless all connected areas meet current Building Code and Fire Code requirements, and the maximum gross square footage for all connected areas does not exceed the limits set forth in Section 20.80.175 C and/or Section 20.80.175 G above. Notwithstanding the provisions above, a detached Accessory Dwelling that is attached to an existing or proposed garage may have a connecting opening, provided the garage does not have a connecting opening to any other Accessory Building not used as a garage, and such garage area shall not be included in the maximum Accessory Dwelling floor area tabulation. All Accessory Buildings and Structures shall meet

the requirements in accordance with Section 20.30.500, and all connected areas shall meet current Building Code and Fire Code requirements.

- e. The cumulative total of the rear yard covered by the Accessory Dwelling, Accessory Buildings, and Accessory Structures, except pools, shall not exceed forty percent (40%) of the rear yard except that such ratio shall not prohibit an eight hundred (800) square foot Accessory Dwelling Unit with minimum four (4) foot side and rear yard setbacks.
  - f. If situated on a lot that is equal to or greater than one-half ( $\frac{1}{2}$ ) an acre in size, an Accessory Dwelling shall be located more than one hundred (100) feet from a riparian corridor as measured from top of bank or vegetative edge, whichever is greater.
6. Roof. Roof height shall be determined in accordance with San José Municipal Code Section 20.200.510.
- E. Design Standards. Accessory Dwellings shall comply with the following design standards:
- 1. Any new addition for an attached Accessory Dwelling Unit, on a property listed on the San José Historic Resources Inventory, shall be located along the rear wall of an existing primary dwelling, unless the Accessory Dwelling Unit is fully enclosed within the existing building walls.
    - a. The attached Accessory Dwelling Unit shall not result in the enclosure of or net loss of any existing porch, unless such porch is located along the rear façade, and the enclosure of or net loss does not exceed ten percent (10%) or more of an existing porch.
    - b. The roofline and materials of the attached Accessory Dwelling Unit shall be differentiated from the primary dwelling.
    - c. A detached Accessory Dwelling Unit may be constructed on any property listed on the City's Historic Resources Inventory, provided the Accessory Dwelling Unit is set back at least forty-five (45) feet from the front property line.
  - 2. The front door of any attached Accessory Dwelling shall not be located on the same facade as the front door of the One-Family Dwelling if that facade

fronts onto a street, unless all other locations for placement of the Accessory Dwelling front door would require a passageway as defined in Government Code Section ~~66314(d)(6)-65852.2(i)(5)~~.

3. Any portion of balconies and landings with areas greater than fifty percent (50%) enclosed with walls and covered shall be included in the total unit floor area, measured to exterior framing, except that the floor area of an internal stairwell will be counted once.
  4. Any porches or balconies that project beyond the footprint of the Accessory Dwelling Unit shall be included in the cumulative total of the rear yard coverage tabulation.
- F. Application-Owner Certification. ~~As part of the building permit application process for an Accessory Dwelling, the owner of record shall submit a declaration, under penalty of perjury, stating that the Accessory Dwelling is not intended for sale separate from the primary residence, but may be rented.~~ Nothing in this Section shall be deemed to affect the legal status of an Accessory Dwelling built with a lawfully issued permit if the property is subsequently transferred or sold, or if the one-family dwelling or Accessory Dwelling is subsequently rented or leased.

The requirements of Subsection F shall not apply to an Accessory Dwelling Unit constructed on a property developed by a Qualified Non-profit Corporation and there is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code. Accessory Dwelling Units meeting these requirements may be sold or conveyed separately from the primary residence to a qualified buyer in conformance with Government Code Section 65852.25 or that has been reviewed and approved by the process stated in Section 20.80.177 of this Municipal Code.

- G. Compliance with Building and Zoning Codes. An Accessory Dwelling shall be built in accordance with the building code set forth in Title 24 of the San José Municipal Code and in conformance with Title 20 of the San José Municipal Code.
- H. Located on One Lot. An Accessory Dwelling shall be located within the same subdivision unit and on the same legal parcel as the One-Family Dwelling or multiple dwelling to which it is ancillary.
- I. Parking. No off-street parking spaces are required for an Accessory Dwelling Unit, and the applicant shall not be required to replace any covered parking spaces that

are removed or demolished as a result of the construction of the Accessory Dwelling Unit.

- J. Other Legal Requirements. Accessory Dwelling Units shall comply with all other applicable legal requirements that are not inconsistent with this Chapter.

SECTION 9. A new Part is added to Chapter 20.80 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

## Part 2.76

### Accessory Dwelling Unit Condominium

#### 20.80.181 Purpose and Applicability

This Part implements Government Code Section 66342, herein referred to as Assembly Bill 1033 (AB 1033). The purpose of this Part is to apply objective local development standards for subdivisions covered by AB 1033. This Part is applicable only so long as AB 1033 is operative.

Where this Part or AB 1033 conflict with any other provisions of this Code, this Part and AB 1033 shall control. Any development standard or requirement not specifically addressed by this Part or AB 1033 must conform to all other provisions of this Code and all other objective policies and requirements governing subdivisions.

#### 20.80.183 Permit Required

Pursuant to Government Code Section 66342, this Section provides for the streamlined approval for conversion of existing or new Accessory Dwelling Units (ADU) into condominiums. These condominiums shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part or pursuant to Government Code Section 66341. No condominium conversion to a project shall be permitted in any district unless permitted in such district and without obtaining approval of a Parcel Map pursuant to the provisions of this Title and Title 19 of the San José Municipal Code.

#### 20.80.185 ADU Condominium Requirements

Subject to the provisions of Section 20.80.180, to achieve the purposes of this Chapter, all projects shall conform to the following requirements:

- A. A maximum of two ADU condominium units shall be allowed on lots that presently allow ADUs, and could include an attached Accessory Dwelling Unit and/or a detached Accessory Dwelling Unit built in accordance with Part 2.75, (Accessory Dwelling Units), Chapter 20.80. In conjunction with the ADU condominium, the parcel map approved pursuant with this section may also include the subdivision of up to two primary dwelling units, in conformance with Part 8, Senate Bill 9 implementation, into condominiums. This allowance shall not exceed a total of four condominium units on each single-family, two-family or multi-family lot under any circumstances.
- B. All structures and buildings included as part of a condominium project shall conform to the building and zoning requirements applicable to the zoning district in which the project is proposed to be located. Designation of individual condominium units shall not be deemed to reduce or eliminate any of the building and zoning requirements applicable to any such buildings or structures.
- C. The condominium shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).
- D. The condominium shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all other objective requirements of this Part.
1. Neither a subdivision map nor a condominium plan shall be recorded with the county recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:
- a. A lienholder may refuse to give consent.
- b. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.
2. Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:
- “(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”

3. The lienholder's consent shall be included on the condominium plan, or attached to the condominium plan that includes the following information:
  - a. The lienholder's signature.
  - b. The name of the record owner or ground lessee.
  - c. The legal description of the real property.
  - d. The identities of all parties with an interest in the real property as reflected in the real property records.
  - e. The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.
  
- E. An Accessory Dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part and of Title 19 of the San José Municipal Code. Prior to approval of a parcel map, a home or property owners' association or similar entity shall be formed for any condominium project. The association shall, at a minimum, provide for the administration, management and maintenance of all common areas including landscaping, drive aisles and parking areas, maintenance of the exterior of all buildings, pool or common roof, the collection of dues, payment of public utilities not billed separately to each unit, and enforcement of standards within the project.
  1. The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.
  2. For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.
  
- F. The applicant shall prepare a declaration of covenants, conditions and restrictions (CC&Rs) which shall be recorded and apply to each owner of a condominium unit within the project. The CC&Rs shall be recorded at, or prior to, the time of parcel map approval, and shall include all applicable conditions of approval and requirements of the City. The CC&Rs shall, at a minimum, provide:

1. That any amendment to the CC&Rs related to the conditions of approval or other requirements of this Chapter may not be approved without prior consent of the City.
  2. That there shall be an entity created (e.g., a property or homeowners' association) which shall be financially responsible for and shall provide for the effective establishment, operation, management, use, repair and maintenance of all common areas and facilities.
  3. A provision containing information regarding the conveyance of units and any assignment of parking, an estimate of any initial assessment fees anticipated for maintenance of common areas and facilities, and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
  4. A provision addressing the payment of utilities including water, sewer, gas and electricity by the homeowner or through the association.
  5. A provision requiring that any owner who rents his/her condominium unit shall conform to the homeowners' association which is responsible for management of the common areas and enforcement of the CC&Rs.
- G. In addition to such covenants, conditions, and restrictions that may be required by the Department of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:
1. Conveyance of units
  2. Management of common areas within the project where common areas exist
  3. A proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses where shared common area infrastructure exists; and indicating the association fees needed for the operating budget and reserve fund.
  4. FHA regulatory agreement, if any

- H. If an accessory dwelling unit is established as a condominium, the homeowner shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
- I. The ADU shall comply with all applicable technical codes including the California Building and Fire Codes. Prior to approval of the parcel map, a safety inspection of the ADU shall be conducted as evidenced through issuance of a final Building Permit or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
- J. In addition to other application submittal requirements, the following information shall be provided:
1. Statement regarding current ownership of all improvements and underlying land.
  2. A site plan and boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
  3. Dimensions and location of each building or unit and the location of all fences and walls.
  4. The location, size, and design for all common areas, including all facilities and amenities provided within the common areas for use by unit owners.
  5. Location and condition for all paved areas, including pedestrian walkways.
  6. Maintenance plan of all buildings and common areas and facilities.

SECTION 10. Section 20.90.060 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.90.060 Parking Spaces**

**A. Off-Street Vehicle Spaces.**

~~1.~~ All vehicle parking spaces may be any combination of sizes as set forth in Section 20.90.100, with the exception that no more than 40% of the spaces may be designated as small car spaces.

**B. Number of Bicycle Parking Spaces Required.**

1. The minimum number of bicycle parking spaces required for uses permitted under this ~~t~~itle is set forth in Table 20-190.
2. Except as otherwise expressly permitted in this ~~e~~Chapter, the minimum number of bicycle parking spaces required under this ~~t~~itle shall be provided on private property on a parcel or development site in an area, other than a public street, public way, or other public property, permanently reserved or set aside for bicycle parking spaces.
3. A minimum of two short-term bicycle parking spaces and one long-term bicycle parking space shall be provided for each site that has a nonresidential use set forth in Table 20-190.
4. If the number of bicycle parking spaces hereinafter required contains a fraction, such number shall be rounded to the nearest higher whole number.
5. When part or all of the bicycle parking spaces required for a land use is based on the number of full-time employees, that portion shall be provided in long-term bicycle parking facilities. When part or all of the bicycle parking spaces required for a land use is based on classrooms, that portion shall be provided in short-term bicycle parking facilities. When the bicycle parking required for a land use is based solely on square footage or other criteria in the table, at least eighty percent of the bicycle parking spaces shall be provided in short-term bicycle parking facilities and at most twenty percent shall be provided in long-term bicycle facilities.
6. For bicycle parking spaces for multiple-dwelling residential use, at least sixty percent (60%) of the bicycle parking spaces shall be provided in long-term bicycle parking facilities, and at most forty percent (40%) shall be provided in short-term bicycle facilities.

**Table 20-190**  
**Bicycle Parking Spaces Required by Land Use and TDM Land Use**  
**Categorization**

Use			Bicycle Parking Required	TDM Use Category
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<b>Agriculture and Resource Uses</b>				
Agriculture and Resource Uses			1 per 10 full-time employees	OTH
<b>Education and Training</b>				
Day care center			1 per 10 full-time employees and children	CEU
Instructional studios			1 per 3,000 sq. ft. of floor area	VEU
Private instruction, personal enrichment			1 per 10 students and full-time employees	VEU
School-elementary (K - 8)			1 per 10 full-time employees plus 6 per classroom	CEU
School- secondary (9 - 12)			1 per 10 full-time employees plus 10 per classroom	CEU
School, post-secondary			1 per 10 full-time employees plus 10 per classroom	CEU
School, trade and vocational			1 per 10 full-time employees plus 10 per classroom	CEU
<b>Entertainment and Recreation</b>				
Arcade, amusement game			1 per 3,000 sq. ft. of floor area	VEU
Batting cages			1 per 10 full-time employees plus one per 6 stations	VEU
Bowling establishment			1 per 2 lanes	VEU
Driving range			1 per 10 full-time employees plus 1 per 10 tees	OTH
Golf course			1 per 10 full-time employees plus 1 per 2 golf holes	OTH
Health club, gymnasium			1 per 1,600 sq. ft. of recreational space	VEU
Miniature golf			1 per 10 full-time employees plus 1 per 6 tees	VEU

Performing arts rehearsal space			1 per 4,000 sq. ft. of floor area	VEU
Poolroom/billiards establishment			1 per 3,000 sq. ft. of floor area	VEU
Private club or lodge			1 per 60 fixed seats on the premises, or 1 per 90 linear feet of seating, plus 1 per 3,000 sq. ft. of area without seating but designed for meeting or assembly by guests, plus 1 per 5,000 sq. ft. of outdoor area developed for recreational purposes	VEU
Recreation, commercial (indoor)			1 per 1,600 sq. ft. of recreational area; for uses requiring reservation, appointments, or classes with limited attendance, 1 per 10 guests;	VEU
Recreation, commercial (outdoor)			2 per acre of site	VEU
Relocated cardroom			1 per 800 sq. ft. area devoted to card games	VEU
Skating rink			1 per 1,000 sq. ft. of floor area	VEU
Swim and tennis club			1 per 5,000 sq. ft. of recreation area	VEU
Motion picture theatre, indoor			1 per 45 seats in theaters with 1-3 screens; 1 per 50 seats with 4+ screens	VEU
Motion picture theatre, outdoor			1 per 3,000 sq. ft.	VEU

Theaters, auditoriums, sports arenas, and stadiums- with or without fixed seats			1 per 60 fixed seats on the premises, plus 1 per 100 linear feet of fixed benches, or 1 per 450 sq. ft. of area used for assembly	VEU
<b>Food Services</b>				
Banquet facility			1 per 50 seats or 1 per 800 square feet of dining area, whichever requires the greater number of parking spaces	VEU
Caterer			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	OTH
Commercial kitchen			1 per 3,000 sq. ft. of floor area	OTH
Drinking establishments			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	VEU
Entertainment (with any food or alcohol service)			1 per 800 sq. ft. of area open to the public	VEU
Outdoor dining incidental to a public eating establishment or a retail establishment			1 space per 50 seats	VEU
Public eating establishments			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	VEU
Take-out only establishment (including but not limited to pizza delivery, ice cream shops, doughnut shops)			1 per 750 sq. ft. of area open to the public	VEU

Taproom or tasting room			1 per 50 seats or 1 per 800 sq. ft. of drinking area, whichever requires the greater number of parking spaces	VEU
Winery, brewery, or distillery with a taproom or tasting room			1 per 300 sq. ft. of floor area and 1 per 10 full-time employees	OTH
<b>General Retail</b>				
Alcohol, off-site sales			1 per 4,000 sq. ft. of floor area	VEU
Food, beverages, and groceries			1 per 3,000 sq. ft. of floor area	VEU
Nursery, plant			1 per 3,000 sq. ft. of floor area	VEU
Open air sales establishments and areas			1 per 3,000 sq. ft. of floor area	VEU
Outdoor vending			2 parking spaces	VEU
Pawn shop/broker			1 per 3,000 sq. ft. of floor area	VEU
Retail sales, goods and merchandise			1 per 3,000 sq. ft. of floor area	VEU
Retail sales of furniture			1 per 4,000 sq. ft. of floor area	OTH
Retail art studio			1 per 3,000 sq. ft. of floor area	VEU
Sales, appliances, industrial equipment, and machinery			1 per 10,000 sq. ft. of floor area	OTH
Neighborhood shopping center (minimum 100,000 sq. ft. in size), includes a mix of permitted, special, and conditional uses			1 per 3,000 sq. ft. of floor area at publicly accessible entrances with locations to be determined through a development permit	VEU
Neighborhood shopping center (minimum 20,000 sq. ft. in size), includes a mix of permitted, special, and conditional uses			1 per 3,000 sq. ft. of floor area at publicly accessible entrances with locations to be determined through a development permit	VEU

<b>General Services</b>				
Bed and breakfast inn			1 per space plus 1 per 10 guest rooms	CEU
Crematory			1 per 10 full-time employees	OTH
Dry cleaner			1 per 3,000 sq. ft. of floor area	VEU
Hotel or motel			1 space plus 1 per 10 guest rooms	CEU
Laundromat			1 per 3,000 sq. ft. of floor area	VEU
Maintenance and repair, small consumer goods			1 per 3,000 sq. ft. of floor area	VEU
Messenger services			1 per 3,000 sq. ft. of floor area	OTH
Mortuary and funeral services			1 per 10 full-time employees	VEU
Mortuary, excluding funeral services			1 per 10 full-time employees	OTH
Personal services			1 per 3,000 sq. ft. of floor area	VEU
Photo processing and developing			1 per 3,000 sq. ft. of floor area	VEU
Printing and publishing			1 per 5,000 sq. ft. of floor area	OTH
Social service agency			1 per 4,000 sq. ft. of floor area	VEU
<b>Health and Veterinary Services</b>				
Animal boarding, indoor			1 per 10 full-time employees	VEU
Animal grooming			1 per 3,000 sq. ft. of floor area	VEU
Emergency ambulance station			1 per 10 full-time employees	OTH
Hospital/in-patient facility			1 per 25 beds	CEU
Office, medical			1 per 4,000 sq. ft. of floor area	VEU
Veterinary clinic			1 per 4,000 sq. ft. of floor area	VEU

<b>Industry</b>				
Commercial support			1 per 5,000 sq. ft. of floor area	VEU
Establishment for the repair, cleaning of household, commercial or industrial equipment or products			1 per 5,000 sq. ft. of floor area	OTH
Hazardous materials storage facility			1 per 10 full-time employees	OTH
Hazardous waste facility			1 per 10 full-time employees	OTH
Industrial services			1 per 5,000 sq. ft. of floor area	OTH
Junkyard			1 per 10 full-time employees	OTH
Laboratory			1 per 5,000 sq. ft. of floor area	CEU
Manufacturing and assembly, light, medium, heavy			1 per 5,000 sq. ft. of floor area	OTH
Miniwarehouse/ministorage			1 per 10 full-time employees	VEU
Outdoor storage			1 per 10 full-time employees	OTH
Private power generation			1 per 10 full-time employees	OTH
Research and development			1 per 5,000 sq. ft.	CEU
Stockyard, including slaughter			1 per 10 full-time employees	OTH
Warehouse			1 per 10 full-time employees	OTH
Warehouse retail			1 per 10 full-time employees	VEU
Wholesale sale establishment			1 per 20,000 sq. ft. of floor area	OTH
<b>Offices and Financial Services</b>				
Automatic teller machine (free standing)			1 per 10 machines	VEU

Business support			1 per 3,000 sq. ft. of floor area	VEU
Financial institution			1 per 4,000 sq. ft. of floor area	VEU
Offices, general business			1 per 4,000 sq. ft. of floor area	CEU
Offices, research and development			1 per 4,000 sq. ft. of floor area	CEU
Private security			1 per 4,000 sq. ft. of floor area	CEU
<b>Public, Quasi-Public and Assembly Uses</b>				
Cemetery			1 per 10 full-time employees	OTH
Church/religious assembly			1 per 60 fixed seats, or 1 per 90 linear feet of seating, or 1 per 450 sq. ft. of area designed for assembly, used together or separately for worship	VEU
Community television antenna systems			1 per 10 full-time employees	OTH
Museums and libraries			1 per 4,000 sq. ft. of floor area open to the public	VEU
Parks and playgrounds			1 per 5,000 sq. ft. of outdoor recreation space	VEU
Community centers			1 per 60 fixed seats, or 1 per 90 linear feet of seating, plus 1 per 3,000 sq. ft. of area without seating but designed for meeting or assembly by guests, plus 1 per 5,000 sq. ft. of outdoor area developed for recreational purposes	VEU
Utility facilities, excluding corporation yards, storage or repair yards and warehouses			1 per 10 full-time employees	OTH

<b>Recycling Uses</b>				
Processing facility			1 per 10 full-time employees	OTH
Transfer facility			1 per 10 full-time employees	OTH
Small collection facility			1 per 10 full-time employees	VEU
<b>Residential</b>				
Co-living community with shared full kitchen facilities			Long-term - .25 spaces per bedroom. Except for buildings containing over 100 bedrooms, 25 long-term spaces plus .20 long-term spaces for every bedroom over 100. Short-term 2 spaces for every 100 bedrooms	HEU
Emergency residential shelter			1 per 5,000 sq. ft. of floor area	HEU
Guesthouse			1 per 10 guest rooms plus 1 per 10 full-time employees	HEU
Live/work			1 per 5,000 sq. ft. of floor area	HEU
Living quarters, custodian, caretakers			1 per 10 living units	HEU
Multiple dwelling			1 per 4 living units	HEU
One family dwelling			None	HEU
Residential care or service facility			1 per 10 full-time employees	CEU
SRO facilities within 2,000 ft. of public transportation			1 per SRO unit	HEU
SRO residential hotels				CEU
SRO living unit facilities with shared kitchen and bathroom facilities				HEU
SRO living unit facilities with partial or full kitchen and bathroom facilities				HEU

SRO facilities not within 2,000 ft. of public transportation			1 per SRO unit	HEU
Sororities, fraternities, and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions			1 per guest room plus 1 per 10 full-time employees	HEU
Temporary farm labor camp necessary to the gathering of crops grown on the site			None	OTH
Travel trailer parks			1 per 10 full-time employees	OTH
Two family dwelling			None	HEU
<b>Transportation and Utilities</b>				
Common carrier depot			1 per 10 full-time employees	OTH
Data center			1 per 5,000 sq. ft. of office/meeting/technician work space, plus 1 for each 50,000 sq. ft. of floor area, or fraction thereof devoted to computer equipment space	OTH
Television and radio studio			1 per 5,000 sq. ft. of space devoted to office use	OTH
Wireless communication antenna			1 per site	OTH
Accessory installation, passenger vehicles and pick-up trucks			1 per 10 full-time employees	VEU
Auto broker, w/on-site storage			1 per 10 full-time employees	CEU
Auto dealer, wholesale, no on-site storage			1 per 10 full-time employees	CEU

Car wash			1 per 10 full-time employees	VEU
Fuel service station or charge station, no incidental service or repair			1 per 10 full-time employees	VEU
Fuel service station or charge station with incidental service and repair			1 per 10 full-time employees	VEU
Glass sales, installation and tinting			1 per 10 full-time employees	VEU
Repair and cleaning per detailing of vehicles			1 per 10 full-time employees	VEU
Sale or lease of vehicles			1 plus 1 per 10 full-time employees	VEU
Exclusively indoors sales			1 plus 1 per 10 full-time employees	VEU
Auto rental agency			1 plus 1 per 10 full-time employees	VEU
Sale, vehicle parts			1 plus 1 per 10 full-time employees	VEU
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning			1 plus 1 per 10 full-time employees	VEU
Tow yard			1 per 10 full-time employees	OTH
Vehicle wrecking, including sales of parts			1 per 10 full-time employees	OTH

**Table 20-211  
Multiple Dwellings in the Pedestrian Oriented Zoning Districts**

	Vehicle Parking Spaces	Bicycle Parking Spaces
Minimum required spaces	N/A	1 per living unit
Maximum required spaces	2.0 per living unit	None

**SECTION 11.** Section 20.90.150 is added to Chapter 20.90 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**20.90.150 Vehicle Parking Facilities in Residence Districts - Restrictions**

In a residential district, no conditional use permit shall be issued for a parking facility intended to serve non-residential uses, unless all of the following conditions are met:

1. The residential district is immediately adjacent to the non-residentially zoned land where the business or other use to be served by such parking is located.
2. Use of the parking is limited to passenger vehicles belonging to the users of the adjacent business or use being served by the parking.
3. Use of the parking is limited to the hours of operation of the adjacent business or use being served.
4. The following criteria and standards are met:

The minimum lot area and front and corner lot side setbacks of the Residence District are met.

- a. The minimum rear and interior lot side setbacks are ten (10) feet
- b. All setback areas and all other areas not required for parking spaces or circulation are landscaped.
- c. No part of any parking space, parking aisle or driveway shall be more than one hundred (100) feet from such nonresidential site.
- d. No driveway access is permitted from a public street unless either the public street is one that is designated an arterial or major collector by the General Plan of the City of San José, or the driveway is located within one hundred and fifty (150) feet of such a designated street.

SECTION 12. Section 20.195.010 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.195.010 Purpose**

The purpose of this Chapter is to:

- A. Specify how the City will implement the review and approval requirements of California Government Code Sections 65650 et seq. ("State Supportive Housing Law"), 65660 et seq. ("State Low Barrier Navigation Centers Law"), 65913.4 et seq. ("State Streamlined Ministerial Approval Process"), 65912.100 et seq. ("AB 2011"), 65583 et seq. ("State Emergency Residential Shelters Law"), and California Health and Safety Code Section 17021.8 ("Agricultural Employee Housing Law"); and
- B. Specify local ministerial approval process for certain housing applications as set forth in Chapter 20.65, Parts 2, 3, and 4; and
- C. Facilitate the development of affordable housing consistent with the goals, objectives, and policies of the City's General Plan Housing Element as may be amended from time to time.

SECTION 13. Section 20.195.020 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.195.020 Definitions**

- A. All terms used in this Chapter that are defined in the State Supportive Housing Law, State Low Barrier Navigation Centers Law, State Emergency Residential Shelters Law, AB 2011, and the State Streamlined Ministerial Approval Process shall have the meaning established by their respective sections, as the same may be amended from time to time.
  - 1. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Supportive Housing Law:
    - a.) Supportive Housing;
    - b.) Supportive Services;
    - c.) Target Population;

- d.) Use by Right; and
  - e.) Lower Income Households.
2. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Low Barrier Navigation Centers Law:
- a.) Low Barrier Navigation Center;
  - b.) Use by Right; and
  - c.) Coordinated Entry System.
3. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Streamlined Ministerial Approval Process:
- a.) Objective Zoning Standards;
  - b.) Objective Subdivision Standards;
  - c.) Objective Design Review Standards;
  - d.) Project Labor Agreement;
  - e.) Skilled and Trained Workforce;
  - f.) Affordable Housing Cost;
  - g.) Affordable Rent;
  - h.) Development Proponent;
  - i.) Completed Entitlements;
  - j.) Moderate Income Housing Units;
  - k.) Production Report;
  - l.) State Agency;

- m.) Subsidized;
- n.) Reporting Period; and
- o.) Urban Uses.

- B. All terms used in this Chapter that are defined in Chapter 20.200 of this Code shall have the meaning established in Chapter 20.200. Where terms that are defined in the State Housing Density Bonuses and Incentives Law are inconsistent with the definitions of the same terms set forth in Chapter 20.200 of this Code, the meaning of the terms in the State Housing Density Bonuses and Incentives Law shall prevail.
- C. Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:
1. "Applicant" means the owner of the property, or person or entity with the written authority of the owner, that submits an application for Ministerial Approval.
  2. "Director" means the Director of Planning, Building and Code Enforcement.
  3. "Ministerial Approval" means:
    - a. Any approval related to a housing development, Agricultural Employee Housing, ~~or a~~ Low Barrier Navigation Center, or Emergency Residential Shelter that meets the requirements of the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, the State Emergency Residential Shelters Law, AB 2011, and/or the State Streamlined Ministerial Approval Process and does not require the exercise of judgement or deliberation by the Director; or
    - b. Any approval related to a housing development that meets the requirements of Chapter 20.65, Parts 2, 3 or 4, and does not require the exercise of judgement or deliberation by the Director.
  4. "Restricted Affordable Unit" means a dwelling unit within a housing development that will be available at an Affordable Rent or Affordable

Housing Cost as specified in the State Supportive Housing Law, AB 2011, and the State Streamlined Ministerial Approval Process.

5. "State Housing Density Bonuses and Incentives Law" means Government Code Section 65915 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to the provision of housing Density Bonus(es) and Incentives.
6. "State Low Barrier Navigation Centers Law" means Government Code Section 65660 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.
7. "State Streamlined Ministerial Approval Process" means Government Code Section 65913.4 and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals.
8. "State Supportive Housing Law" means Government Code Sections 65650 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.
9. "AB 2011" means Government Code Sections 65912.100 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.
10. "State Emergency Residential Shelters Law" means Government Code Section 65583 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.
119. "Agricultural Employee Housing Law" means Health and Safety Code Section 17021.8 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.
120. "Eligible Agricultural Employee Housing" has the same meaning as "Eligible Agricultural Employee Housing Development" defined in Health and Safety Code Section 17021.8 et seq., or as later amended.

134. "Housing Development Project" has the same meaning as defined in Government Code Section 65589.5, or as later amended.

SECTION 14. Section 20.195.030 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.195.030- Ministerial Approval**

- A. Ministerially Approved Developments. The City will Ministerially Approve a housing development, Eligible Agricultural Employee Housing, ~~or~~ Low Barrier Navigation Center, or Emergency Residential Shelter that meets the requirements specified in the State Supportive Housing Law, the Agricultural Employee Housing Law, the Emergency Residential Shelters Law, the State Low Barrier Navigation Centers Law, AB 2011, and/or the State Streamlined Ministerial Approval Process when an Applicant submits an application as specified by this Chapter 20.195.
- B. Restricted Affordability and Supportive Housing Calculations.
1. If an Applicant seeks Ministerial Approval under the State Supportive Housing Law, the number of required Restricted Affordable Units, Supportive Housing Units, and Supportive Services floor area will be calculated in accordance with the State Supportive Housing Law.
  2. If an Applicant seeks Ministerial Approval under the State Streamlined Ministerial Approval Process, the number of required Restricted Affordable Units will be calculated in accordance with the State Streamlined Ministerial Approval Process.
  3. If an Applicant seeks Ministerial Approval under the Agricultural Employee Housing Law, the number of required Restricted Affordable Units will be calculated in accordance with the provisions of Health and Safety Code Section 171021.8 et. seq.
- C. Replacement of Pre-Existing Lower Income Units. A housing development seeking Ministerial Approval under the State Supportive Housing Law shall replace any dwelling units on the site of the proposed housing development in the manner required by the State Supportive Housing Law.
- D. Development Standards. Notwithstanding the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, AB 2011, the State Emergency Residential Shelters Law, and the State Streamlined Ministerial Approval Process, Ministerially Approved housing developments and Low Barrier Navigation Centers.

and Emergency Residential Shelters shall meet all objective site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195.

E. Notwithstanding the Agricultural Employee Housing Law provisions, Eligible Agricultural Employee Housing shall comply with all of the following:

1. Development Standards.

- a. All objective site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195.
- b. Maintain setback requirements applicable to the zoning district in which the property is located.
- c. Residential uses must be located at least seventy-five (75) feet from any barn, pen, or other structure that houses livestock or poultry, and fifty (50) feet from any other agricultural use.
- d. No ground disturbance is allowed within one hundred (100) feet from a riparian corridor as measured from the top of the bank or vegetative edge, whichever is greater.
- e. The development must have access to and from a public street composed of a dustless and compacted surface with gravel or similar permeable surface, or asphalt.
- f. The development must have access to adequate permanent water and wastewater facilities and dry utilities to serve the project. All residents must have permanent access to potable water.
- g. If located within the Urban Service Area, the development must be connected to an existing public water system. If the development proposes to include ten (10) or more units, it must connect to an

existing municipal sewer system that has adequate capacity to serve the project.

2. Additional Requirements for Eligible Agricultural Employee Housing:

If the applicant submits an application under the provisions of the Agricultural Employee Housing Law, the proposed project must comply with the following requirements:

- a. Eligible Agricultural Employee Housing must be managed and operated by a qualified affordable housing organization (QAHO) certified by the California Department of Housing and Community Development (HCD) or a local public housing agency, and that agency either directly maintains and operates the Eligible Agricultural Employee Housing project, or contracts with another QAHO that has been certified by HCD to manage the Project. A copy of the QAHO's HCD certification must be included in the streamlined review application.
- b. The applicant shall record an affordability covenant on the property to ensure the affordability of the proposed Eligible Agricultural Employee Housing for agricultural employees for not less than fifty-five (55) years; and made available at an affordable rent, as defined in Section 50053 et. seq, to lower-income households, as defined in Section 50079.5 et. seq.
- c. The issuance of a permit for Eligible Agricultural Employee Housing, occupied exclusively by agricultural employees, does not authorize any other use. If the use is discontinued, then the property must comply with all applicable Zoning requirements that exist at the time the Eligible Agricultural Employee Housing use is discontinued.
- d. Eligible Agricultural Employee Housing shall conform with the Mobilehome Parks Act (Health and Safety Code Section 18200 et seq), and Special Occupancy Parks Act (Health and Safety Code Section 18860 et seq. where applicable.
- e. The permittee shall submit an annual written verification by June 1, of each year, to the Director of Planning, Building, and Code Enforcement, to verify that all of the information provided in its permit application is still accurate, and provide proof that the permit to

operate or exemption from the California Department of Housing and Community Development is in good standing.

SECTION 15. Section 20.195.050 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.195.050 Application Review and Approval Process**

- A. General. An application for Ministerial Approval shall be acted upon by the Director.
- B. Conditions for Approval. Before approving an application for Ministerial Approval, the Director must make the following findings based on evidence in the record, as applicable, that:
  - 1. The housing development, Eligible Agricultural Employee Housing, or Low Barrier Navigation Center, or Emergency Residential Shelter is eligible for Ministerial Approval.
  - 2. If the Ministerial Approval is based all or in part on the provision of Supportive Housing, a finding that all the requirements for a Supportive housing development that are specified in the State Supportive Housing Law have been or will be met.
  - 3. If the Ministerial Approval is for a Low Barrier Navigation Center, a finding that all the requirements for a Low Barrier Navigation Center that are specified in the State Low Barrier Navigation Centers Law have been or will be met.
  - 4. If the Ministerial Approval request is based all or in part on the State Streamlined Ministerial Approval Process, a finding that all the requirements for a housing development approval that are specified in the State Ministerial Approval Process have been or will be met.
  - 5. If the Ministerial Approval is based all or in part on the provisions of AB 2011, a finding that all the requirements for housing development that are specified in AB 2011 have been or will be met.
  - 6. If the Ministerial Approval is for an Emergency Residential Shelter, a finding that all the requirements for an Emergency Residential Shelter that are specified in Section 20.80.500 have been or will be met.

75. If the Ministerial Approval is based all or in part on the provisions of the Agricultural Employee Housing Law, a finding that all requirements for an Eligible Agricultural Employee Housing development approval that are specified in the Agricultural Employee Housing Law are met.
86. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for density bonuses and/or other incentives that are specified in Chapter 20.190 have been or will be met.

C. Conditions for Denial.

1. The Director may deny an application for Ministerial Approval if the findings required by Subsection B above, as applicable, cannot be made.
2. The Director may deny a Ministerial Approval if doing so would be contrary to state and federal law, and this finding is made in writing.
3. Nothing in this Chapter 20.195 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.

D. Permit Conditions

1. Term. Unless otherwise required by state law, Ministerial Approvals shall automatically expire three (3) years from the date of the final action establishing that approval, unless otherwise provided in the approval, from and after the date of issuance of the Ministerial Approval if within such three-year period the proposed use of the site or vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Ministerial Approval. The duration of the approval may be extended as provided for in state law.
2. Conditions. Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse

impact" has the meaning defined in Government Code section 65589.5(d)(2).

3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.
4. Construction clean up. It shall be a violation of this Title for any person responsible for construction including but not limited to the permit holder and any contractor thereof to fail to keep the public right-of-way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.
5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first-floor, ground floor windows for any commercial use shall consist of transparent glass.
6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters 15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.
7. Hours of Construction within five hundred (500) feet of a residential unit. No applicant or agent of an applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.

9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.
10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.

SECTION 16. Section 20.200.1265 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

**20.200.1265 Permanent Supportive Housing**

"Permanent supportive housing" means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (f) of Section 65582 of the California Government Code, as the same may be renumbered or amended from time to time, and that is linked to onsite or offsite services that assist supportive housing residents in retaining housing, improving their health status, and maximizing their ability to live and, when possible, work in the residents' community. Supportive housing shall be treated under this ~~¶~~ Title as a residential use and shall be allowed in residential, commercial, public/quasi-public, and the downtown zoning districts. Pursuant to State law, any 100% deed-restricted affordable housing project with at least twenty-five percent (25%) of the units dedicated to permanent supportive housing while the remainder is rent-restricted low-income housing for households earning eighty percent (80%) Area Median Income or less, shall be considered a permanent supportive housing development in entirety.

NVF:TLC:KML  
06/7/2024

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

# San Jose ADU law brings back starter homes



by [Vicente Vera](#) August 15, 2024



The San Jose City Council recently approved a policy that will permit homeowners to sell their accessory dwelling units (ADUs) as condos. Photo courtesy of ADU4Life Inc.

With San Jose recently becoming the first California city to allow the sale of accessory dwelling units (ADUs) as condos, affordable housing advocates say it increases the supply of living spaces for residents once priced out.

The state long restricted the sale of ADUs, also known as granny flats and backyard homes, as separate residences until Gov. Gavin Newsom signed Assembly Bill 1033 last year — [allowing cities](#) to break away from the prohibition. With more than [1,400 new ADUs built](#) since 2019 and thousands more in development across San Jose, city leaders hope to alleviate the affordable housing crisis with the help of existing homeowners.

Classifying [ADUs](#) as condos to [increase home ownership](#) gained traction in cities such as Austin, Texas and Seattle, Washington, Rafael Perez, board president of the affordable housing advocacy nonprofit [Casita Coalition](#), said. The statewide organization, which works to remove barriers to more affordable, sustainable homes, advocated for AB 1033 and created a model policy that San Jose used to draft its local legislation.

With San Jose adopting [the strategy](#), Perez said more cities nationwide will take notice.

“What does a house sell for in the neighborhood you’re checking out? ADU condos tend to go for 40% to 60% of that price,” he told San José Spotlight. “We’re in conversations with other jurisdictions who are looking toward San Jose’s model to see what needs to be done to implement their own ordinances.”

Todd Langton, executive director of homelessness nonprofit [Agape Silicon Valley](#), said he’s excited about the policy. But he’s also concerned about the possibility of large corporations buying a bulk of ADUs similar to the mass buying of [single-family homes](#) across the Bay Area.

“These investors will buy these homes and let them sit empty, and all they’re looking for is the appreciation value,” Langton told San José Spotlight. “Hopefully that doesn’t happen and we prohibit any institutional purchasers of these ADUs.”



Most condos in San Jose currently list under \$750,000, according to real estate listing site [Redfin](#).

They used to be called starter homes, [SPUR](#) State Policy Director Michael Lane said, but opportunities for first-time homeowners have dried up as median home prices skyrocket and residential zoning across San Jose remains limited to single-family homes.

Only [6% of San Jose's residential land](#) is zoned for multi-family housing developments like apartments, and the imbalance continues to strain the city's housing supply.

"The new ordinance provides the gentle density that we need in San Jose without really disturbing the existing neighborhood very much at all — and so it did blend in really well," Lane told San José Spotlight. "This gives additional options for both the prospective homebuyers as well as property owners across the city."

Mayor Matt Mahan said AB 1033 allowing cities to launch the sale of ADUs as condos helps keep the American Dream alive for aspiring homeowners.

"San Jose will continue to lead the way, but we can't solve this crisis alone — I am looking forward to seeing other California cities follow suit," Mahan said.

*Contact Vicente Vera at [vicente@sanjosespotlight.com](mailto:vicente@sanjosespotlight.com) or follow [@VicenteJVera](#) on X, formerly known as Twitter.*



SAN DIEGO  
HOUSING  
COMMISSION

## **City of San Diego Accessory Dwelling Unit (ADU) Bonus Program Application Process San Diego Housing Commission (SDHC)**

The City of San Diego ADU Bonus program allows additional ADUs to be built on a property after the owner has maximized the number of ADUs allowed by right. (To understand what is allowed on your site, see Section I.C. of the City of San Diego's [Information Bulletin 400](#).)

### **What does the ADU Bonus Program allow?**

- One additional unrestricted ADU is allowed for every deed-restricted ADU.
  - If your property is within the Transit Priority Area (TPA), there is no limit on the bonus ADUs (subject to space).
  - If your property is not within the TPA, the limit is two bonus ADUs - one restricted ADU and one unrestricted ADU.
- Property owners have the choice of Area Median Income (AMI) levels (very low, low, or moderate) for deed restrictions. Please see ADU rent and income chart.
- The affordable ADUs shall be comparable in size, bedroom mix, amenities and features to the market-rate ADU(s).
  - In projects where it is not possible to provide direct proportionality, the affordable units shall be either within one bedroom of the market-rate units (where the square footage is the same) or within 15 percent of the market-rate square footage (with the same bedroom count).

### **What does the ADU Bonus Program require?**

- Moderate-income, deed-restricted ADU(s) must have affordability restrictions in place for 15 years. Low-income, deed-restricted ADU(s) must have affordability restrictions for 10 years.
  - In a single-family zone, the affordability restriction will be on title in second lien position.
  - In a multifamily zone, the affordability restriction will be on title in first lien position.
- Property owners shall submit income verification to SDHC before tenant occupancy so SDHC can determine tenant eligibility. Tenants in the affordable unit shall provide income information annually to confirm continued eligibility.
- If tenants' incomes rise beyond the income limits, there is an income threshold at which tenants will be asked to vacate.
  - Very low- and low-income tenants' incomes can rise to low- and moderate-income, respectively.
  - Moderate-income tenants' income can rise up to 140 percent of AMI. After 140 percent of AMI, the tenant shall be given 180 notice to vacate.

- Prior to the end of the 10- and 15-year affordability restriction, tenants shall be provided with rent restriction expiration notices. Notices are required three years, 12 months, and six months prior to restriction expiration. Additional information about these notices can be found in [California Government Code 65863.10](#).

#### **What is the ADU Bonus Program application process?**

- Owners will submit their project plans to the City of San Diego Development Services Department (DSD). DSD will provide the plans to SDHC for review. SDHC will provide project conditions to DSD and the applicant.
- Owners will submit the ADU Bonus Program application, supplemental attachments, and \$600 application fee (to cover Legal fees) directly to SDHC. Contact Ann Kern at [annk@sdhc.org](mailto:annk@sdhc.org) for a copy of the application.
- After the application has been reviewed, SDHC will provide drafts of the affordable housing agreement and deed of trust. Both documents will be recorded on the property.
- Once the documents have been recorded, SDHC will sign off on the building permit.

#### **Are there other considerations to keep in mind?**

- The application process with SDHC can take several weeks to complete. Please plan accordingly.
- Owners will need to pay an annual monitoring fee (per deed-restricted unit) and submit income verification for the duration of affordability restrictions. The current annual fee is \$150 per unit.
- The rent limit for the restricted ADU(s) will be reduced by the utility allowance amount if those utilities are paid by the tenant.
  - The charts that show the rent and income limits and the utility allowances can be found on SDHC's website here: <https://www.sdhc.org/about-us/compliance-monitoring/>

For questions on the ADU Bonus Program process, please contact Ann Kern at [annk@sdhc.org](mailto:annk@sdhc.org).

For more information on ADUs, please see the following resources:

- [City of San Diego's Information Bulletin 400](#)
- [City of San Diego Companion Unit Handbook](#)
- [City of San Diego Affordable Housing Toolkit, ADU Bonus Program website](#)


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### GOVERNMENT CODE - GOV

**TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]** ( *Heading of Title 7 amended by Stats. 1974, Ch. 1536.* )

**DIVISION 1. PLANNING AND ZONING [65000 - 66342]** ( *Heading of Division 1 added by Stats. 1974, Ch. 1536.* )

**CHAPTER 13. Accessory Dwelling Units [66310 - 66342]** ( *Chapter 13 added by Stats. 2024, Ch. 7, Sec. 20.* )

**ARTICLE 4. Accessory Dwelling Unit Sales [66340 - 66342]** ( *Article 4 added by Stats. 2024, Ch. 7, Sec. 20.* )

**66340.** For purposes of this article:

(a) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(b) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

(*Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.*)

**66341.** A local agency shall allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

- (a) The accessory dwelling unit or the primary dwelling was built or developed by a qualified nonprofit corporation.
- (b) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.
- (c) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:
  - (1) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling that each qualified buyer occupies.
  - (2) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the accessory dwelling unit or primary dwelling if the buyer desires to sell or convey the property.
  - (3) A requirement that the qualified buyer occupy the accessory dwelling unit or primary dwelling as the buyer's principal residence.
  - (4) Affordability restrictions on the sale and conveyance of the accessory dwelling unit or primary dwelling that ensure the accessory dwelling unit and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.
  - (5) If the tenancy in common agreement is recorded after December 31, 2021, it shall also include all of the following:
    - (A) Delineation of all areas of the property that are for the exclusive use of a cotenant. Each cotenant shall agree not to claim a right of occupancy to an area delineated for the exclusive use of another cotenant, provided that the latter cotenant's obligations to each of the other cotenants have been satisfied.
    - (B) Delineation of each cotenant's responsibility for the costs of taxes, insurance, utilities, general maintenance and repair, improvements, and any other costs, obligations, or liabilities associated with the

property. This delineation shall only be binding on the parties to the agreement, and shall not supersede or obviate the liability, whether joint and several or otherwise, of the parties for any cost, obligation, or liability associated with the property where such liability is otherwise established by law or by agreement with a third party.

(C) Procedures for dispute resolution among the parties before resorting to legal action.

(d) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(e) Notwithstanding Section 66324, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(f) Nothing in this section limits the ability of an accessory dwelling unit to be sold or otherwise conveyed separate from the primary residence as a condominium pursuant to an ordinance adopted under Section 66342.

*(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)*

**66342.** In addition to the requirement that a local agency allow the separate sale or conveyance of an accessory dwelling unit pursuant to Section 66341, a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums. Any such ordinance shall include all of the following requirements:

(a) The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(b) The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all objective requirements of a local subdivision ordinance.

(c) Before recordation of the condominium plan, a safety inspection of the accessory dwelling unit shall be conducted as evidenced either through a certificate of occupancy from the local agency or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

(d) (1) Neither a subdivision map nor a condominium plan shall be recorded with the county recorder in the county where the real property is located without each lienholder's consent. The following shall apply to the consent of a lienholder:

(A) A lienholder may refuse to give consent.

(B) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(2) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."

(3) The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:

(A) The lienholder's signature.

(B) The name of the record owner or ground lessee.

(C) The legal description of the real property.

(D) The identities of all parties with an interest in the real property as reflected in the real property records.

(E) The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.

(e) The local agency shall include the following notice to consumers on any accessory dwelling or junior accessory dwelling unit submittal checklist or public information issued describing requirements and permitting for accessory dwelling units, including as standard condition of any accessory dwelling unit building permit or condominium plan approval:

"NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

(f) If an accessory dwelling unit is established as a condominium, the local government shall require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(g) (1) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(2) For purposes of this subdivision, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

(h) An accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this paragraph or pursuant to this article.

*(Added by Stats. 2024, Ch. 7, Sec. 20. (SB 477) Effective March 25, 2024.)*

## CONCURRENCE IN SENATE AMENDMENTS

AB 1033 (Ting)

As Amended August 24, 2023

Majority vote

**SUMMARY**

Allows cities and counties that have a local accessory dwelling unit (ADU) ordinance to allow ADUs to be sold separately or conveyed from the primary residence as condominiums.

**Senate Amendments**

- 1) Specifies that a condominium plan must not be recorded with the county recorder in the county where the real property is located without each lienholder's consent. Provides that a lienholder may refuse to give consent, or that a lienholder may consent provided that any terms and conditions required by the lienholder are satisfied;
- 2) Requires the owner of a property that is within an existing homeowners association to receive written authorization of that association before they can record a condominium plan;
- 3) Updates the contents of the notice required to be provided by local agencies to any applicant for an ADU, including advising applicants considering selling the ADU as a condominium to contact the local agency to make sure that such a sale is permitted by that local agency;
- 4) Requires that, if an ADU is established as a condominium, the local government must require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance; and
- 5) Makes technical changes for chaptering purposes.

**COMMENTS**

*Homeownership Opportunity for Lower Income Households:* Homeownership is the primary mechanism for American households to create and maintain wealth. The financial outcomes between homeowner and renter households are stark: the median net worth of homeowners (\$337,000) is almost 60 times larger than that of renters (\$5,700).<sup>1</sup>

Not all households have access to homeownership. The statewide median home price is nearly \$800,000.<sup>2</sup> At that price, only 17% of households can afford to purchase the median priced single-family home.<sup>3</sup> This figure is less than half of the national average, and less than half of the rate at the start of the pandemic.<sup>4</sup> Additionally, homeownership outcomes are worse for Latinx and Black households. While 68% of white households are currently homeowners, only 49% of

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<sup>1</sup> US Census Bureau, "The Wealth of Households: 2020," August 2022:

<https://www.census.gov/content/dam/Census/library/publications/2022/demo/p70br-181.pdf>

<sup>2</sup> California Association of Realtors Housing Affordability Index. Data for the 4<sup>th</sup> quarter of 2022.

<https://www.car.org/marketdata/data/haitraditional>

<sup>3</sup> Ibid

<sup>4</sup> Ibid

Latinx and 41% of Black households are homeowners.<sup>5</sup> Approximately 12% of Black and Latinx households can afford the current median price of a single-family home in California.<sup>6</sup>

One potential pathway to homeownership for moderate- and lower income households could be through the sale or conveyance of ADUs. The average size of a single-family home in California is 1,860 square feet.<sup>7</sup> By comparison, the average size of an ADU in California is less than one-third of that, at 615 square feet.<sup>8</sup> Presuming a commensurate reduction in price, the purchase of an ADU would be affordable to lower income households.<sup>9</sup>

This bill allows local agencies to adopt ordinances to allow the separate conveyance of ADUs and primary residences as condominiums. The bill requires any ordinance to require that the process to establish the condominiums complies with both the Davis-Stirling Common Interest Development Act, which governs homeowners associations (HOAs), and the Subdivision Map Act, which governs the subdivision of property. The bill also requires that there is written and recorded evidence that each lienholder consents to the establishment of the condominiums. If a property is within a homeowners association, that homeowners association must approve the creation of the condominium. Finally, the bill requires the local agency to provide notice to applicants for ADUs of these requirements, such that they can make informed decisions in advance.

### **According to the Author**

"The lack of home ownership opportunities in most California communities for working families is contributing to the State's growing population of renters and driving families out of state so that they can buy a home. Many neighborhoods have become de-facto gated communities, with median home prices of \$700K to \$1M keeping out all but a small percentage of Californians from ever dreaming of home ownership, reducing the state's population and harming our economy. The absence of available homes for purchase at rates affordable to moderate-income working families bars wealth-building and housing stability for Californians harmed by historic discriminatory housing policies. AB 1033 allows cities and counties the freedom to pursue homeownership programs and to create a path to wealth-building for families by repealing the current law prohibiting the separate conveyance of ADUs."

### **Arguments in Support**

Supporters of the bill argue that it will help facilitate the production of ADUs and the sale of moderately-priced housing. According to the Bay Area Council, a cosponsor, "AB 1033 would repeal the state's prohibition against selling ADUs. This would allow local governments to choose how and if to allow for-sale ADUs through a local ordinance. Local governments that

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<sup>5</sup> <https://www.calhfa.ca.gov/community/index.htm>

<sup>6</sup> California Association of Realtors Housing Affordability Index: <https://www.car.org/marketdata/data/haitraditional/haiethnicity>. Data from 2021.

<sup>7</sup> <https://www.ahs.com/home-matters/real-estate/the-2022-american-home-size-index/>

<sup>8</sup> Chapple et al, Implementing the Backyard Revolution: Perspectives of California's ADU Owners, UC Berkeley Center for Community Innovation, April 2021: <https://www.aducalifornia.org/wp-content/uploads/2021/04/Implementing-the-Backyard-Revolution.pdf>

<sup>9</sup> Presuming a down payment of 20% and an interest rate of 7%, an ADU is affordable to a household earning approximately \$62,000 a year. According to the US Census, the median household income in California is slightly over \$84,000 a year (<https://www.census.gov/quickfacts/fact/table/CA/BZA210220>).

want to allow smaller starter homes for sale will take this chance to use ADU law to create more affordable for-sale options in their communities."

### **Arguments in Opposition**

Opponents of the bill argue that the newly created units must be for sale, or at least allow the local government to require an owner-occupancy provision. According to the California Association of Realtors, such a change would "achieve the authors goal and will help to bridge the wealth gap among our most ethnically diverse communities throughout the state by ensuring that homeowners, not corporate developers, benefit from the financial gains that could be created under AB 1033."

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee, no state costs. Local costs are not reimbursable by the state because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

## **VOTES:**

### **ASM HOUSING AND COMMUNITY DEVELOPMENT: 6-1-1**

**YES:** Wicks, Wendy Carrillo, Zbur, Kalra, Quirk-Silva, Ward

**NO:** Sanchez

**ABS, ABST OR NV:** Joe Patterson

### **ASM LOCAL GOVERNMENT: 5-2-1**

**YES:** Aguiar-Curry, Boerner, Pacheco, Robert Rivas, Wilson

**NO:** Dixon, Waldron

**ABS, ABST OR NV:** Ramos

### **ASM APPROPRIATIONS: 12-4-0**

**YES:** Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Robert Rivas, Weber, Ortega

**NO:** Megan Dahle, Dixon, Mathis, Sanchez

### **ASSEMBLY FLOOR: 50-16-14**

**YES:** Addis, Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Gipson, Haney, Hart, Holden, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pellerin, Quirk-Silva, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

**NO:** Alanis, Chen, Megan Dahle, Davies, Dixon, Flora, Vince Fong, Gallagher, Lackey, Mathis, Jim Patterson, Joe Patterson, Sanchez, Ta, Waldron, Wallis

**ABS, ABST OR NV:** Bains, Boerner, Essayli, Garcia, Grayson, Hoover, Irwin, Maienschein, Pacheco, Papan, Petrie-Norris, Ramos, Rodriguez, Valencia

**SENATE FLOOR: 21-14-5**

**YES:** Allen, Ashby, Atkins, Becker, Blakespear, Bradford, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Laird, McGuire, Menjivar, Newman, Skinner, Smallwood-Cuevas, Stern, Umberg, Wiener

**NO:** Alvarado-Gil, Archuleta, Caballero, Dahle, Grove, Hurtado, Jones, Nguyen, Niello, Ochoa Bogh, Rubio, Seyarto, Wahab, Wilk

**ABS, ABST OR NV:** Limón, Min, Padilla, Portantino, Roth

**UPDATED**

VERSION: August 24, 2023

CONSULTANT: Steve Wertheim / H. & C.D. / (916) 319-2085

FN: 0001807

# AB 1033: Permitting Separate Sale or Conveyance of Accessory Dwelling Units as Condominiums

(Government Code Sections 65852.2)

March 2024

## Overview

**Assembly Bill (AB) 1033** (Government Code Sections 65852.2) allows local agencies to adopt an ordinance to permit the separate sale or conveyance of accessory dwelling units and the primary dwelling unit as condominiums. AB 1033 would allow ADUs to be considered a separate property and sold independently from the primary residence.

## Purpose

This document is intended solely as a technical overview of new legislation. It is not intended to serve as legal advice regarding any jurisdiction's specific policies or any proposed housing development project. Local staff should consult with their city attorney or county counsel before taking any action to implement these changes.

## Summary and Considerations for Local Jurisdictions

If a local agency elects to implement the sale of accessory dwelling units, then it should repeal all provisions in the municipal code that restrict the sale or transfer of an accessory dwelling and adopt appropriate text to permit accessory dwellings to be sold separately from the primary unit. AB 1033 requires a specific list of provisions to be included in a local ordinance if an agency decides to permit the separate sale or conveyance of accessory dwelling units. Pursuant to Government Code Section 65852.2 (a)(10), the ordinance must include the following:

- (A) The condominium must qualify as a common interest development pursuant to the California Davis-Stirling Common Interest Development Act (Civil Code Sections 4000 et seq).
- (B) The condominium must be created in conformance with all applicable objective requirements of the Subdivision Map Act (Government Code Sections 66410 et seq) and all objective requirements of a local subdivision ordinance.
- (C) A safety inspection of the accessory dwelling unit must be conducted before recording the condominium plan.
- (D) The subdivision map or condominium plan cannot be recorded against the property until the lienholder(s) consents. The lienholder can opt to not consent, effectively

prohibiting the subdivision. Or the lienholder may consent provided that certain terms and conditions are met.

(E) The homeowner will be required to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(F) If the property is in a planned development with an existing association, the property owner must first obtain the express written authorization of the existing association before recording a condominium map.

### **Required Written Consent**

Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

“(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”

### **Noticing Requirements**

A local agency that adopts an ordinance to allow for the separate conveyance of an ADU must also provide a standard notice on all submittal checklists, attached at the end of this document, about the process for converting the development into condominiums

## Standard Notice per Government Code Section 65852.2(a)(10)(E)

**NOTICE:** If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct.

# AB 1033 OPT-IN: ADU CONDOS FOR HOMEOWNERSHIP



## A Powerful New Tool

AB 1033 established the right for ADUs to be sold separately as condos in CA jurisdictions that opt-in to the allowance. Casita Coalition, the trusted statewide nonprofit authority on ADUs, worked with Reuben, Junius & Rose to draft a model local ordinance compliant with state law. Join the City of San Jose, Berkeley and others to adopt ADU Condo ordinances!

## Why opt-in?

Only 15% of Californians can afford to purchase a home. The economic impacts to the state, communities and families are immense. ADU condos commonly sell for 30-40% less than single detached homes, creating an attainable new starter home supply for those priced out of the market and helping to redress historic housing harms.

### Existing

- ✓ Seattle WA
- ✓ Portland OR
- ✓ Texas
- ✓ New Jersey

### Opting-in

- ✓ City of San Jose
- ✓ City of Berkeley
- ✓ City of Santa Cruz
- ✓ Many more in progress



### A new pipeline of starter homes

Thousands of ADU condos successfully created in Portland, Austin, Seattle and many other cities



### Downsize and stay in community

Overhoused homeowners are stuck without options for downsizing



### Multigenerational living flexibility

Families can live together on a lot, but with separate ownership, financing and ability to sell



### Reduce or eliminate mortgage debt

Aging in place and retirement option. Sell one condo and live mortgage-free



### Lower-cost, faster permitting

Leverages the streamlining of California's popular ADU laws



### More financing options

Condo purchase/construction financing options are abundant, including Fannie and Freddie.

Model Local Ordinance and Guidance Memo by:

REUBEN JUNIUS & ROSE LLP



## Key Points:

- Efforts to reduce the racial homeownership and wealth gaps will continue to struggle unless there are attainable homes available for purchase. Opting in to ADU condos creates a pipeline to help fill that need.
- AB 1033 doesn't change what can be developed on a lot, it just adds a new ownership option.
- Nonprofits can already sell ADUs separately in CA. Opting in provides that opportunity for private home owners.
- It utilizes well-established existing regulations such as condominium law and the Subdivision Map Act.
- ADUs built as detached units, attached units and conversions of existing space (whether inside the primary home or in detached structures) can all be converted to condos (as well as primary residence.) JADUs are not eligible for conversion.
- To be converted to condos, ADUs will need proof of final building permit or a housing quality standards report.
- ADUs on multifamily properties and on lots developed under SB 9 provisions are also eligible for condo conversion.

## ADU Condo Benefits:

- Condoized ADUs are naturally inclusionary housing and the least expensive form of urban infill new housing production.
- Opting in to ADU condos complements programs providing down payment assistance and other resources for first-time homebuyers.
- ADU condos create downsizing opportunities for overhoused elder homeowners who want to stay in their communities and reduce their housing costs and maintenance responsibilities—freeing up larger homes for young families.
- Jurisdictions can choose to require a 45-day exclusive listing of ADU condos to owner occupant purchasers if they wish to encourage this category of buyer.

**Article 1: Separately Regulated Use Regulations**

**Division 3: Residential Use Category--Separately Regulated Uses**

*(Added 12-9-1997 by O-18451 N.S.)*

**§141.0302 Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)**

*Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)*, are permitted as a limited use decided in accordance with Process One, indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) Regulations for *ADUs* and *JADUs*.
  - (1) Guest Quarters. Guest quarters and non-habitable *accessory structures* shall be permitted in addition to *ADUs* and *JADUs*, if permitted by the base zone.
  - (2) Development Impact Fees. Development Impact Fees for *ADUs* and *JADUs* shall be paid in accordance with Section 142.0640(b).
  - (3) Multi-Dwelling Unit and Urban Lot Split Regulations. An *ADU* or *JADU* shall not be permitted to be constructed on any *premises* that has utilized the provisions of Chapter 14, Article 3, Division 13, Multi-Dwelling Unit and Urban Lot Split Regulations for Single Family Zones, except as provided in Section 143.1305(c)(1).
  - (4) Previously Conforming. Construction of an *ADU* or *JADU* shall not require correction of *previously conforming* conditions on the *premises*.
  - (5) Conversion. An *ADU* or *JADU* that is converted from an existing *dwelling unit* or *accessory structure*, or is constructed in the same location and within the same *building envelope* as an existing *dwelling unit* or *accessory structure*, may continue to observe the same *setbacks* as the existing *dwelling unit* or *accessory structure* and they shall not be subject to the *setback* requirements in Section 141.0302(b)(9).
  - (6) Fire Sprinklers.
    - (A) An *ADU* or *JADU* shall not be required to provide automatic fire sprinklers if they are not required for the primary *dwelling unit*.

- (B) An *ADU* or *JADU* shall be required to provide an automatic fire sprinkler system when located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler system in accordance with the California Building Standards Code.
  - (C) The construction of a detached *ADU* shall not trigger a requirement for automatic fire sprinklers to be installed in the existing primary *dwelling unit* or *multiple dwelling unit* unless required in accordance with the California Building Standards Code.
- (7) Within the Coastal Overlay Zone.
- (A) An existing *structure* may only be converted or reconstructed as an *ADU* or *JADU* if the *structure* conforms to all the following regulations:
    - (i) The *wetland* regulations in Section 143.0141(b);
    - (ii) The *sensitive coastal bluffs* regulations in Section 143.0143;
    - (iii) The *coastal beaches* regulations in Section 143.0144; and
    - (iv) The Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.
  - (B) *ADUs* or *JADUs* constructed within areas of future sea level rise shall comply with the regulations in Section 132.0404.
  - (C) *ADUs* or *JADUs* shall comply with all the following regulations:
    - (i) The *wetland* regulations in Section 143.0141(b);
    - (ii) The *sensitive coastal bluffs* regulations in Section 143.0143;
    - (iii) The *coastal beaches* regulations in Section 143.0144; and
    - (iv) The Supplemental Regulations of the Coastal Overlay Zone in Section 132.0403.

- (8) An *ADU* shall not be used for a rental term of less than 31 consecutive days. *JADUs* are not subject to rental term limitations.
- (b) *ADU* Development Regulations.
  - (1) On a *premises* with an existing or proposed *single dwelling unit*, the following is permitted:
    - (A) One *ADU* that is within an existing or proposed *single dwelling unit* or within an existing *accessory structure*, subject to the following:
      - (i) Construction of the *ADU* may expand the *gross floor* area of an existing *accessory structure* up to 150 square feet to only allow for ingress and egress; and
      - (ii) The *ADU* shall have a separate exterior entry from the *single dwelling unit*.
    - (B) One attached or detached *ADU*.
  - (2) The maximum number of *ADUs* on a *premises* with a proposed *multiple dwelling unit structure* shall not exceed two detached *ADUs*.
  - (3) On a *premises* with an existing *multiple dwelling unit structure*, the following applies:
    - (A) The maximum number of *ADUs* that may be permitted within the existing non-livable space of an existing *multiple dwelling unit structure* shall not exceed 25 percent of the total number of *multiple dwelling units* in the *structure*. The minimum number of *ADUs* that may be permitted within the non-livable space of the existing *structure* is one. For example, non-livable space includes, but is not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages; and
    - (B) A maximum of eight detached *ADUs* may be permitted on the *premises*, provided that the number of detached *ADUs* shall not exceed the number of existing *multiple dwelling units* in the *multiple dwelling unit structure*.

- (4) In accordance with Government Code section 66321(b)(3), one attached or detached *ADU* with a *gross floor area* of 800 square feet or less may be permitted in accordance with Sections 141.0302(a)(1)-(a)(3), provided that the *development* results in no more than one attached or detached *ADU* on the *premises*. The *ADU* shall not be subject to maximum *lot coverage*, maximum *floor area ratio*, a front *yard setback*, and minimum open space requirements of the underlying base zone.
- (5) **Lot Size.** A minimum *lot size* is not required for the construction of an *ADU*.
- (6) **Density.** *ADUs* are not subject to the *density* limitations of the base zone for the *premises*.
- (7) **Gross Floor Area.**
  - (A) The *gross floor area* of an *ADU* shall not be less than 150 square feet.
  - (B) The *gross floor area* of an attached or detached *ADU* shall not exceed 1,200 square feet.
  - (C) An *ADU* constructed within an existing or proposed *single dwelling unit structure* shall not have a maximum *gross floor area* requirement.
  - (D) An *ADU* constructed within an existing *accessory structure* on a *single dwelling unit lot* shall not have a maximum *gross floor area* requirement and may construct an additional 150 square feet to only allow for ingress and egress.
  - (E) *ADUs* constructed within an existing *multiple dwelling unit structure* shall not have a maximum *gross floor area* requirement.
  - (F) The *gross floor area* of an *ADU* shall be included in the *floor area ratio* for the *premises*.
- (8) **Height.**
  - (A) On *lots* that permit *single dwelling unit development* but not *multiple dwelling unit development*, detached *ADU structures* shall not exceed two *stories*.

- (B) On *lots* that permit *single dwelling unit development* but not *multiple dwelling unit development*, ADUs attached to an existing *accessory structure* shall not exceed two stories.
  - (C) ADUs shall comply with the overall maximum *structure height* of the underlying base zone and overlay zone.
- (9) Setbacks.
- (A) The front *yard setback* of an ADU shall be consistent with the base zone.
  - (B) The minimum *street side yard setback* of an ADU shall be 4 feet or the minimum *street side yard setback* of the base zone, whichever is less.
  - (C) Interior side *yard* and rear *yard setbacks* for ADU structures with a *structure height* of 16 feet or less shall be provided as follows:
    - (i) For ADU structures located on a *premises* outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side *yard* and rear *yard setbacks*, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.
    - (ii) For ADU structures located on a *premises* within a High or Very High Fire Hazard Severity Zone, the minimum interior side *yard* and rear *yard setbacks* shall be 4 feet to provide defensible space between all *structures* on the *premises* and contiguous areas of native or naturalized vegetation, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.
  - (D) Interior side *yard* and rear *yard setbacks* for ADU structures with a *structure height* that exceeds 16 feet shall be provided as follows:

- (i) For *ADU structures* located on a *premises* outside of a High or Very High Fire Hazard Severity Zone, there is no minimum interior side *yard* and rear *yard setbacks*, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code. However, if the side or rear *property line* abuts another *premises* that is residentially zoned or developed with exclusively residential uses, the minimum interior side *yard* and rear *yard setbacks* shall be 4 feet or the minimum *setback* of the applicable base zone, whichever is less, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.
  - (ii) For *ADU structures* located on a *premises* within a High or Very High Fire Hazard Severity Zone, the minimum interior side *yard* and rear *yard setbacks* shall be 4 feet to provide defensible space between all *structures* on the *premises* and any contiguous areas of native or naturalized vegetation or as otherwise required, except that the Fire Code Official may require a greater *setback* to ensure compliance with the California Fire Code, California Code of Regulations (CCR), Title 14, Section 1276.01, and the International Fire Code (IFC), including section 504.1.
- (10) Parking.
- (A) No on-street parking spaces or *off-street parking spaces* are required for *ADUs*, except as specified in Section 141.0302(b)(10)(B).
  - (B) When an *ADU* is proposed on a *premises* located both within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, one *off-street parking space* located consistent with Section 141.0302(b)(10)(D) shall be required per *ADU*, unless any of the following apply:
    - (i) The *ADU* is 500 square feet or less;
    - (ii) The *premises* is located within a *historical district* that is a *designated historical resource*;

- (iii) The *ADU* is attached to the proposed or existing primary *dwelling unit* or *accessory structure*;
  - (iv) The *premises* is located within a residential permit parking district; or
  - (v) There is a car share vehicle located within one block of the *premises*.
- (C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an *ADU*, or converted to an *ADU*, replacement of those *off-street parking spaces* is not required unless the *premises* is located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of the *transit priority area*, in which case parking shall be replaced in a location consistent with Section 141.0302(b)(10)(D).
- (D) When an uncovered parking space is demolished in conjunction with the construction of an *ADU*, or converted to an *ADU*, replacement of those *off-street parking spaces* is not required.
- (E) If *off-street parking spaces* are required in accordance with Section 141.0302(b)(10)(B) or 141.0302(b)(10)(C), or if the *applicant* chooses to provide *off-street parking spaces* for *ADUs* located on the *premises*, the following applies:
- (i) *Off-street parking spaces* may be located within the *setback* areas, and may include tandem spaces or mechanical lifts; and
  - (ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*. *Off-street parking spaces* may not encroach into the *public right-of-way*.
- (F) Notwithstanding Section 141.0302(a)(4), if the construction of an *ADU* causes an existing driveway curb cut to no longer comply with the minimum *off-street parking spaces* dimensions required in Table 142-05K of Section 142.0560, the driveway shall be closed to the satisfaction of the City Engineer.

- (11) The *record owner* is not required to live on the same *premises* of an *ADU*.
- (c) Development Regulations for *JADUs*.
  - (1) On a *premises* with an existing or proposed *single dwelling unit*, one *JADU* is permitted, subject to the following:
    - (A) The *JADU* shall be within an existing or proposed *single dwelling unit* or attached garage;
    - (B) *Construction* of the *JADU* may expand the floor area of the existing *single dwelling unit* up to 150 square feet to only allow for ingress and egress;
    - (C) The *JADU* shall have a separate exterior entry from the existing or proposed *single dwelling unit*;
    - (D) The *JADU* may not be sold or conveyed separately from the primary *dwelling unit*;
    - (E) The *record owner* of the primary *dwelling unit* shall reside in the *single dwelling unit* or *JADU*; and
    - (F) Before a Building Permit may be issued for a *JADU*, the *record owner* shall enter into an agreement with the City in a form that is approved by the City Attorney that includes the following provisions:
      - (i) The *JADU* may not be sold or conveyed separately from the primary *dwelling unit*;
      - (ii) The agreement may be enforced against future purchasers;
      - (iii) The *record owner* shall reside on the *premises*;
      - (iv) The agreement shall be recorded in the Office of the County Recorder of San Diego County; and
      - (v) The agreement shall run with the land for the life of the *JADU*.
    - (G) Government agencies, land trusts, and qualified housing organizations are exempt from Section 141.0302(c)(1)(E) and Section 141.0302(c)(1)(F).

- (2) Lot Size. *JADUs* are not subject to a minimum *lot* size.
- (3) *Density*. *JADUs* are not subject to the *density* limitations for the *premises*.
- (4) *Gross Floor Area*.
  - (A) The *gross floor area* of a *JADU* shall not be included in the *floor area ratio* for the *premises*.
  - (B) A *JADU* shall not be less than 150 square feet and shall not exceed 500 square feet within an existing or proposed *single dwelling unit*.
- (5) Exterior Entry. A *JADU* shall have a separate exterior entry from the primary *dwelling unit*.
- (6) Kitchen. A *JADU* shall include the following:
  - (A) A cooking facility with appliances;
  - (B) A food preparation counter of a reasonable size in relation to the size of the *JADU*; and
  - (C) Storage cabinets that are of a reasonable size in relation to the size of the *JADU*.
- (7) Parking.
  - (A) No on-street parking spaces or *off-street parking spaces* are required for a *JADU*.
  - (B) When an attached garage is converted to a *JADU*, replacement of those *off-street parking spaces* is not required unless the *premises* is located within the Beach Impact Area of the Parking Impact Overlay Zone and outside of a *transit priority area*, in which case parking shall be replaced in a location consistent with Section 141.0302(c)(7)(C).
  - (C) If *off-street parking spaces* are required in accordance with Section 141.0302(c)(7)(B) or if the *applicant* chooses to provide *off-street parking spaces* for *JADUs* located on the *premises*, the following applies:

- (i) *Off-street parking spaces* may be located within the *setback* areas, and may include tandem spaces or mechanical lifts; and
      - (ii) *Off-street parking spaces* shall be located within *hardscape* areas and shall comply with the minimum standards and guidelines to provide safe and efficient means of vehicular access to the *lot*. *Off-street parking spaces* may not encroach into the *public right-of-way*.
  - (D) Notwithstanding Section 141.0302(a)(4), if the construction of a *JADU* causes an existing driveway curb cut to no longer comply with the minimum *off-street parking space* dimensions required in Table 142-05K of Section 142.0560, the driveway shall be closed to the satisfaction of the City Engineer.
- (d) *ADU Home Density Bonus*. In addition to the *ADUs* and *JADUs* permitted under Sections 141.0302(b) and 141.0302(c), additional bonus *ADUs* and affordable *ADUs* shall be permitted subject to the following:
  - (1) Location Requirements.
    - (A) The portion of the *premises* proposed for *development* may not be within the following base zones: RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-8, RS-1-9, RS-1-10, or RS-1-11, unless the following apply:
      - (i) The *premises* is in an area identified as a High or Highest California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the *development* application is *deemed complete*; and
      - (ii) The *premises* is identified as Residential in a *land use plan*.
    - (B) On a *premises* within the *Sustainable Development Area*, one additional bonus *ADU* shall be permitted for every additional affordable *ADU*.
    - (C) On a *premises* outside of the *Sustainable Development Area*, a maximum of one bonus *ADU* and one affordable *ADU* shall be permitted.

- (D) When a *premises* is located in more than one base zone, only the portion of the *premises* that meets the requirements of Section 141.0302(d)(1)(A) shall be eligible for bonus *ADUs* and affordable *ADUs* as specified in Sections 141.0302(d)(1)(B) or 141.0302(d)(1)(C).
- (2) *Lot Requirements.*
  - (A) Within High and Very High Fire Hazard Severity Zones, the *applicant* shall demonstrate that the *lot* fronts an improved public *street* with at least two evacuation routes to the satisfaction of the Fire Code Official; and
  - (B) Within High and Very High Fire Hazard Severity Zones, the *lot* shall not front a cul-de-sac or be located on a *premises* that only has one point of ingress or egress.
- (3) *Floor Area Ratio.*
  - (A) Within a base zone that permits *single dwelling unit developments* but not *multiple dwelling unit developments*, the maximum *floor area ratio* shall be determined as follows:
    - (i) Where the *lot* contains *environmentally sensitive lands*, the maximum permitted *floor area ratio* shall be determined using only the area of the *lot* that does not contain *environmentally sensitive lands*;
    - (ii) In no case shall the maximum permitted *floor area ratio* be determined using more than 8,000 square feet for the *lot* area; and
    - (iii) For the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-5, RS-1-6, RS-1-7 base zones, the applicable *floor area ratio* shall be determined in accordance with Table 131-04J using the adjusted *lot* area as described in Sections 141.0302(d)(3)(A)(i) and 141.0302(d)(3)(A)(ii).
  - (B) Within a base zone that permits *multiple dwelling unit developments* where the *lot* contains *environmentally sensitive lands*, the maximum permitted *floor area ratio* shall be determined by using the area of the *lot* that does not contain *environmentally sensitive lands*.

- (4) Total Maximum number of permitted *ADUs* and *JADUs* on *single dwelling unit lots*. The total maximum number of *ADUs* and *JADUs* that may be permitted on a *lot* within a base zone that permits *single dwelling unit development* but not *multiple dwelling unit development*, shall be based on the *lot* area in accordance with Table 141-03A. If the *lot* contains *environmentally sensitive lands*, the *lot* area shall be determined using the area of the *lot* that does not contain *environmentally sensitive lands*.

**Table 141-03A**  
**Maximum Number of Permitted *ADUs* and *JADUs* on *Single Dwelling Unit Lots***

Lot Area (square feet)	Maximum Number of <i>ADUs</i> and <i>JADUs</i> <sup>1</sup>
8,000 or less	4
8,001 to 10,000	5
10,001 or greater	6

<sup>1</sup> The maximum number of *ADUs* and *JADUs* is inclusive of the total number of *ADUs* and *JADUs* that are permitted in accordance with Section 141.0302.

- (5) Fire Sprinklers. All affordable *ADUs* and bonus *ADUs* in the *development* shall include an automatic fire sprinkler system in accordance with the California Building Standards Code.
- (6) Minimum Required *Off-Street Parking Spaces*. One *off-street parking space* shall be required for each affordable *ADU* and bonus *ADU* located outside of a *transit priority area*.
- (7) Landscape Requirements. Two trees shall be provided on the *premises* for every 5,000 square feet of *lot* area, with a minimum of one tree per *premises*. If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City’s Street Tree Selection Guide. If the *premises* is located in the OR Zone, the *lot* area used to determine the tree requirement shall be based on the allowable *development* area as described in Section 131.0250. If the *premises* contains *environmentally sensitive lands*, the *lot* area used to determine the tree requirement shall be based on the allowable *development* area as described in Chapter 14, Article 3, Division 1.

- (8) *ADU Home Density Bonus Agreement.* The affordable *ADUs* shall be guaranteed through a written agreement and a deed of trust securing the agreement, entered into by the *applicant* and President and Chief Executive Officer of the San Diego Housing Commission, or their designee, prior to the issuance of a Building Permit for the first affordable *ADU* or bonus *ADU*, whichever occurs first, that meets the following requirements:
- (A) A rental affordable *ADU* home density bonus agreement shall utilize the following qualifying criteria:
- (i) *Very Low Income ADU Home Density Bonus.* One additional bonus *ADU* shall be permitted for every affordable *ADU* on the *premises* that is set aside as affordable to *very low income* households for a period of not less than 10 years at a rent that does not exceed 30 percent of 50 percent of the area *median income* as adjusted for household size;
  - (ii) *Low Income ADU Home Density Bonus.* One additional bonus *ADU* shall be permitted for every affordable *ADU* on the *premises* that is set aside as affordable to *low income* households for a period of not less than 10 years at a rent that does not exceed 30 percent of 60 percent of the area *median income* as adjusted for household size;
  - (iii) *Moderate Income ADU Home Density Bonus.* One additional bonus *ADU* shall be permitted for every affordable *ADU* on the *premises* that is set aside as affordable to *moderate income* households for a period of not less than 15 years at a rent that does not exceed 30 percent of 110 percent of the area *median income* as adjusted for household size; and
  - (iv) The *very low income, low income, and moderate income* affordable *ADUs* shall be comparable in bedroom mix and amenities to the bonus *ADUs* in the *development*.

- (B) Violations. If the terms of the rental affordable *ADU* home density bonus agreement are violated by the *applicant*, the *applicant* shall be liable for a minimum penalty of \$10,000 per *ADU* per month, in addition to any fines outlined in the rental affordable *ADU* home density bonus agreement with the San Diego Housing Commission.
- (9) *ADU* Home Density Bonus Program Community Enhancement Fee. The *applicant* shall pay an *ADU* Home Density Bonus Program Community Enhancement Fee as established by San Diego Resolution, calculated based on the *gross floor area* of the affordable *ADUs* and bonus *ADUs*, except that the *gross floor area* of any affordable *ADUs* that meet all the following shall not be included in the calculation:
- (A) The affordable *ADU* is deed restricted to *very low income* or *low income* households in accordance with Section 141.0302(d)(8)(A)(i) or 141.0302(d)(8)(A)(ii); and
  - (B) The *premises* is located in an area identified as a High or Very High Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area when the *development application* is *deemed complete*.
- (e) *ADU* Bonus for Accessible *ADUs*. For *development* utilizing the *ADU* Home Density Bonus Program in accordance with Section 141.0302(d), a maximum of one additional accessible *ADU* shall be permitted if the *development* includes:
- (1) At least two *ADUs* that are affordable to *very low income*, *low income*, or *moderate income* households; and
  - (2) The accessible *ADU* meets the following:
    - (A) Accessibility requirements in Chapter 11A of the California Building Code, including at least one accessible bathroom, one accessible *kitchen*, and one accessible *bedroom*;
    - (B) The accessible *ADU* shall be located on an accessible route, as defined by the California Building Code; and
    - (C) The accessible *ADU* shall be comparable in *bedroom* mix and amenities to the bonus *ADUs* in the *development*.

- (f) Sale or Conveyance of *ADUs*. New or existing *ADUs* may be converted into condominiums and shall be sold or otherwise conveyed separately from the primary residence in accordance with this Section or pursuant to Section 141.0302(g) and subject to all the following:
- (1) All *structures* and buildings included as part of a condominium *development* shall conform to the requirements applicable to the base zone or planned district in which the *development* is located. Designation of individual condominium units shall not be deemed to reduce or eliminate any of the base zone or planned district requirements applicable to the buildings or *structures*. Unless otherwise allowed for *ADUs* pursuant to Section 141.0302(b);
- (A) The condominium *subdivision* shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with section 4000) of Division 4 of the California Civil Code);
- (B) The condominium *subdivision* shall be created in conformance with the *Subdivision Map Act* (Division 2 (commencing with California Government Code section 66410));
- (C) Neither a *subdivision map* nor a condominium plan shall be recorded without each lienholder’s written consent. The following shall apply to the consent of a lienholder:
- (i) A lienholder may refuse to give written consent; or
- (ii) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied;
- (D) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder’s consent shall be provided to the Office of the County Recorder of San Diego County along with a signed statement from each lienholder that states the following:  
“(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have.”;
- (E) The lienholder’s written consent shall be included on the condominium plan, or attached to the condominium plan that includes the following information:

- (i) The lienholder's signature;
  - (ii) The name of the *record owner* or ground lessee;
  - (iii) The legal description of the real property;
  - (iv) The identities of all parties with an interest in the real property as reflected in the real property records; and
  - (v) The lienholder's written consent shall be recorded in the Office of the County Recorder of San Diego County.
- (2) The condominium *development* shall be subject to the Subdivision requirements in Chapter 12, Article 5.
- (3) The condominium *development* shall be subject to the Condominium Conversion Regulations in Chapter 14, Article 4, Division 5 if any of the *ADUs* in the *development* were occupied.
- (4) If an *ADU* is established as a condominium, the *applicant* shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
- (5) The condominium *development* shall be located on a single parcel or *lot* that was previously mapped and monumented in a manner satisfactory to the City Engineer in accordance with Subdivision Map Act Section 66428(b).
- (6) For a minimum period of 30 days from the date an *ADU* that is established as a condominium is first listed for sale, the *record owner* shall offer the *ADU* through at least two publicly accessible real estate websites or databases with a disclosure stating that the *ADU* is being offered for at least 30 days to buyers intending to use the *ADU* as their primary residence.
- (7) *ADUs* that have received financing or other forms of assistance from the San Diego Housing Commission shall not be converted into condominiums and shall not be sold or otherwise conveyed separately from the primary residence during the term specified in the deed restriction agreement.

- (8) Rental *ADUs* that are rent restricted by law or covenant to persons and families of *very low income*, *low income*, or *moderate income* shall not be converted into condominiums and shall not be sold or otherwise conveyed separately from the primary residence for the duration of the deed restriction or affordability covenant term.
- (g) Sale or Conveyance of an *ADU* by a nonprofit corporation.
  - (1) An *ADU* may be sold or conveyed separately from the primary *dwelling unit* by a qualified nonprofit corporation.
  - (2) For the purpose of Section 141.0302(g), a qualified nonprofit corporation means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under the California Revenue and Taxation Code section 214.15 for properties intended to be sold to *low-income* families who participate in a special no-interest loan program.
  - (3) For an *ADU* to be sold or conveyed separately from the primary *dwelling unit* by a qualified nonprofit corporation, the following shall apply:
    - (A) There is an enforceable restriction on the use of the *premises* on which the *ADU* is located pursuant to a recorded agreement between the qualified buyer and the qualified nonprofit corporation. For the purposes of Section 141.0302(g)(3)(A), a qualified buyer means *very low income*, *low income*, *median income*, or *moderate income* households, as specified below:
      - (i) *Very low income ADUs* 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 *ADU*;
      - (ii) *Low income ADUs* 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 *ADU*;

- (iii) *Moderate income ADUs* shall be affordable to *moderate income* households at a housing cost that does not exceed 35 of 110 percent of the area median income, as adjusted for household size, appropriate for the *ADU*.
- (B) The *lot* where the *ADU* is located is held pursuant to a recorded tenancy in common agreement that includes:
  - (i) An allocation to each qualified buyer of an undivided, unequal interest in the *lot* based on the size of the *ADU* each qualified buyer occupies;
  - (ii) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property;
  - (iii) A requirement that the qualified buyer occupy the property as the qualified buyer’s principal residence; and
  - (iv) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for *very low income, low income, median income, or moderate income* households for 45 years for owner-occupied housing and will be sold or resold to a qualified buyer.
- (C) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the Office of the Recorder in San Diego County.
- (D) A Preliminary Change of Ownership Report shall be filed concurrently with the grant deed pursuant to the California Revenue and Taxation Code section 480.3.
- (E) If requested by a utility providing service to the primary residence, the *ADU* has a separate water, sewer, or electrical connection to that utility.

*(“Accessory Dwelling Units and Junior Accessory Dwelling Units” added 10-30-2020 by O-21254 N.S.; effective 11-29-2020. Former Section 141.0302 “Companion Units, Junior Units, and Movable Tiny Houses” repealed.)*

*(Amended 3-11-2022 by O-21439 N.S.; effective 4-10-2022.)*

*(Amended 6-3-2022 by O-21461 N.S.; effective 8-26-2022.)*

*(Amended 7-21-2022 by O-21477 N.S.; effective 9-7-2022.)*

**(Note:** Please see City Attorney memo attached to Ordinance O-21477 regarding Section 141.0302.)

*(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)*

*(Retitled from “Accessory Dwelling Units and Junior Accessory Dwelling Units” to “Accessory Dwelling Units and Junior Accessory Dwelling Units” and 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.

Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-21758-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21758-SO.pdf) ]

*(Amended 8-5-2024 by O-21843 N.S.; effective 9-12-2024.)*

*(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)*

**[Editors Note:** Amendments as adopted by O-21836 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-21836-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21836-SO.pdf) ]

*(Retitled from “Accessory Dwelling Units and Junior Accessory Dwelling Units” to “Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs)” and amended 7-23-2025 by O-21989 N.S.; effective 8-22-2025.)*

**[Editors Note:** Amendments as adopted by O-21989 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-21989-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21989-SO.pdf) ]

**§141.0303 Continuing Care Retirement Communities**

Continuing Care Retirement Communities (CCRCs) are licensed by the state as both a Residential Care Facility for the Elderly and a Skilled Nursing Facility, regulated under the California Health and Safety Code, and overseen by the California Department of Social Services. They provide residents with multiple living environments based on the changing level of care required by the resident. The communities typically provide independent living *dwelling units*, assisted living *dwelling units*, and convalescent and memory care rooms. A CCRC is a distinct residential use and should not be considered a sum of separate, multiple uses when determining compliance with permitted land uses.

CCRCs may be permitted with a Conditional Use Permit decided in accordance with Process Three, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), or as a limited use in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) CCRCs are not permitted in agricultural zones in *Proposition A Lands*.
- (b) Convalescent and memory care rooms shall, at a minimum, comply with California Code of Regulations Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly).
- (c) Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. The location, type, and size of the proposed lighting fixtures shall be specified on the *development permit* application.
- (d) CCRCs shall be subject to the landscape regulations for commercial *development* in Table 142-04A.
- (e) As a distinct, separately regulated residential use, CCRCs are not subject to the *density* limitations of the applicable community plan and underlying base zone.

*(“Continuing Care Retirement Communities” added 8-4-2016 by O-20704 N.S.; effective 8-27-2016. Former Section 141.0303 “Employee Housing” renumbered to Section 141.0304.)*

*(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)*

**§141.0304 Employee Housing**

Employee housing is housing provided for agricultural workers in accordance with the California Health and Safety Code, Employee Housing Act. Employee housing does not include housing for persons engaged in household domestic service. Employee housing is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0304(a). Employee housing may be permitted with a Neighborhood Use Permit or a Conditional Use Permit in the zones indicated with an “N” or a “C,” respectively, in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0304(b).

(a) Limited Use Regulations

- (1) Employee housing for 6 or fewer persons is permitted subject to the following regulations.
  - (A) The employee housing shall be qualified for a permit to operate under Health and Safety Code Section 17030.
  - (B) Employee housing is permitted for no more than 6 persons including *family* members.
  - (C) Employees and their *families* shall be housed within the *single dwelling unit* on the *premises*, or in a separate *structure* on the *premises* that is not a *dwelling unit*.
  - (D) Off-street parking shall be provided at a rate of 1 space for every 2 employees.
- (2) Employee housing for 12 or fewer employees is permitted subject to the following regulations.
  - (A) The employee housing shall be qualified for a permit to operate under Health and Safety Code Section 17030.
  - (B) Employee housing is permitted for up to 12 employees, plus any *family* members.
  - (C) Agricultural employees may be employed off-site. All other employees must be employed on the *premises* containing the employee housing.

- (D) Only one *structure* for employee housing may be permitted on the *premises*.
  - (E) The employee housing is permitted in a separate *structure* on the *premises* that is not a *dwelling unit*.
  - (F) Off-street parking shall be provided at a rate of 1 space for every 2 employees.
- (b) Neighborhood Use Permit and Conditional Use Permit Regulations
- (1) Employee housing may be permitted for more than 12 employees, plus any *family* members.
  - (2) A minimum *lot* size of 10 acres is required for employee housing for more than 12 employees.
  - (3) Agricultural employees may be employed off-site. All other employees must be employed on the *premises* containing the employee housing.
  - (4) Only one *structure* for employee housing may be provided for every 10 acres of *lot* area.
  - (5) The *structure* for employee housing is permitted in addition to a *single dwelling unit* on the same *premises* and is subject to all development regulations of the base zone.
  - (6) Off-street parking shall be provided at a rate of 1 space for every 2 employees.

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

(Amended 11-13-08 by O-19803 N.S; effective 12-13-2008.)

("Employee Housing" renumbered from former Section 141.0303 and amended 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)

**§141.0305 Fraternity Houses and Sorority Houses**

Fraternity houses and sorority houses are facilities that are designed or used as a residence for students that are members of an organized university or college fraternity or sorority and enrolled at a college or university accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges. Fraternity houses and sorority houses may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Fraternity houses and sorority houses may be permitted only in the following locations:
  - (1) Within an area specifically designated for these facilities by the applicable *land use plan*, or
  - (2) When the applicable *land use plan* does not contain a designated area, such facilities may be located within a 1-mile radius of the boundary of a college or university campus, in any of the following zones: RM-3-7, RM-3-8, RM-3-9, RM-4-10, and RM-4-11.
- (b) If the fraternity house or sorority house is not located on a college or university campus, off-street parking shall be provided as follows:
  - (1) At a rate of 1 parking space for each resident if the fraternity house or sorority house is located outside of a *transit priority area*, or
  - (2) Through a parking agreement between the college or university with which the fraternity house or sorority house is affiliated and the *applicant*, which will allow the *applicant* to use college or university parking facilities to meet the parking requirement.
- (c) A resident manager is required to live on the *premises*.
- (d) The fraternity house or sorority house must be officially recognized by the college or university.

- (e) The frequency and duration of organized outdoor activities and social events shall be limited as needed to minimize adverse impacts on neighboring *development*.

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

*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

*(“Fraternity Houses, Sorority Houses, and Student Dormitories” renumbered from former Section 141.0304 on 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)*

*(Retitled from “Fraternity Houses, Sorority Houses, and Student Dormitories” to “Fraternity Houses and Sorority Houses” and 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.

Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-21758-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21758-SO.pdf) ]

#### **§141.0306 Garage, Yard, and Estate Sales**

Garage, yard, and estate sales are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Garage, yard, and estate sales are permitted only as an *accessory use* to a permitted dwelling unit.
- (b) The number of sales per *premises* shall not exceed three per year.
- (c) Each sale shall not exceed two consecutive calendar days.

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

*(“Garage, Yard, and Estate Sales” renumbered from former Section 141.0305 on 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)*

#### **§141.0307 Guest Quarters or Habitable Accessory Buildings**

Guest quarters or habitable *accessory buildings* are attached or detached accessory living quarters developed of habitable construction, and located on a *lot* with a *single dwelling unit* that do not provide complete, independent living facilities and do not have direct access to the primary *dwelling unit*. Guest quarters or habitable *accessory buildings* are solely for the use of the occupants of the primary *dwelling unit* or their guests or employees.

Guest quarters or habitable *accessory buildings* may be permitted accessory to a *single dwelling unit* as a limited use in accordance with Process One in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) A primary *dwelling unit* must exist on the *premises*. Concurrent construction of the primary *dwelling unit* and the guest quarters or habitable *accessory building* is permitted.
- (b) Guest quarters or habitable *accessory buildings* may occupy a maximum of 25 percent of the allowable *gross floor area* of the *premises*.
- (c) Guest quarters or habitable *accessory buildings* may be attached to or detached from the primary *dwelling unit* on the *premises*.
- (d) The *gross floor area* of the guest quarters or habitable *accessory buildings* shall be included in the *floor area ratio* calculation for the *premises*.
- (e) The guest quarters or habitable *accessory buildings* shall not contain a *kitchen* or facilities for the storage and preparation of food. A bar sink and miniature refrigerator may be permitted.
- (f) For guest quarters or habitable *accessory buildings* located above a garage or other *accessory building*, the maximum *structure height* for flat-roofed *structures* is 21 feet. For sloped-roofed *structures* with a roof pitch of at least 3:12 (3 vertical feet to 12 horizontal feet), the maximum *structure height* is 30 feet.
- (g) Decks and staircases of not more than 3 feet in height may encroach into required *yards*.
- (h) *Roof decks*, including railings, shall not exceed the height limits in Section 141.0307(f).
- (i) Occupancy of a *premises* containing guest quarters or habitable *accessory buildings* shall be subject to the following:
  - (1) Guest quarters or habitable *accessory buildings* shall not be rented, leased, or sold as a separate *dwelling unit*.

- (2) Before a Building Permit is issued for a guest quarters or habitable *accessory building*, the *record owner* shall submit a signed agreement with the City that neither the primary *dwelling unit* nor the guest quarters or habitable *accessory building* shall be sold or conveyed separately. The City will provide the agreement to the County Recorder for recordation.
- (3) Guest quarters or habitable *accessory buildings* shall be used solely by the occupants of the primary *dwelling unit*, their guests, or their employees.

(Amended 1-9-2001 by O-18910 N.S.; effective 8-8-2001.)

(Amended 11-13-08 by O-19803 N.S.; effective 12-13-2008.)

(Retitled from “Guest Quarters” to “Guest Quarters or Habitable Accessory Buildings” and amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(“Guest Quarters or Habitable Accessory Buildings” renumbered from former Section 141.0306 and amended 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

### §141.0308 Home Occupations

Home occupations are businesses conducted by residents on the *premises* of their homes. Home occupations, including cottage food operations authorized pursuant to California Government Code section 51035, are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. An *applicant* may deviate from the requirements in Section 141.0308(k) through (n) by obtaining a Neighborhood Use Permit in accordance with Section 126.0203.

- (a) Home occupations are permitted only as *accessory uses* to a residential use.
- (b) Any products produced for sale must be manufactured by hand, grown on the *premises*, or prepared within a *kitchen* that meets the standards for cottage food operations in a *dwelling unit* in accordance with California Health and Safety Code section 114365.
- (c) The home occupation may reduce required *off-street parking spaces* by one *off-street parking space*, so long as the reduction does not result in the elimination of all *off-street parking spaces*.
- (d) *Signs* advertising the home occupation are not permitted. Other advertising shall not include the address of the *premises*.

- (e) Home occupations, except for horticultural uses permitted in Chapter 13, Article 1, Division 3 (Agricultural Base Zones) and Division 4 (Residential Base Zones), shall be conducted within an enclosed *structure* on the *premises*.
- (f) Materials or products associated with the home occupation on the *premises* must be stored within an enclosed *structure*.
- (g) Indoor storage of materials or products associated with the home occupation shall not exceed 1,000 cubic feet for the entire *premises* or any more restrictive limitations imposed by the Building and Housing Codes or the County Health Department.
- (h) The operation of the home occupation shall be consistent with permitted residential uses, shall not create any conditions that amount to a *public nuisance*, and shall not be detrimental to the residential neighborhood by causing increased noise, traffic, lighting, odor, or by violating any applicable ordinances or laws.
- (i) The resident of the *premises* shall not rent space to others in association with a home occupation.
- (j) Only a resident of the *premises* may engage in a home occupation on the *premises*.
- (k) Home occupations may have a maximum of one employee or partner on the *premises* between 7:00 a.m. and 7:00 p.m., Monday through Saturday. For the purpose of Section 141.0308(k) an employee does not include a resident of the home.
- (l) Home occupations may have a maximum of one customer on the *premises* at a time, by appointment only, between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Home occupations shall not host customers on the *premises* more frequently than one customer within a 2-hour time period.
- (m) Home occupations may have a maximum of one vendor on the *premises* at a time between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Home occupations shall not host vendors on the *premises* more frequently than one vendor within a 2-hour time period.
- (n) A maximum of one vehicle for business-related purposes is permitted on-street in the residentially zoned area and shall be parked in compliance with the regulations in Section 86.0139 if applicable.

- (1) Business-related vehicles may not exceed a one-ton carrying capacity.
- (2) Tow-trucks are not a permitted home occupation vehicle.

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

*(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)*

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

**§141.0309 Interim Ground Floor Residential**

Residential *development* within commercial zones is permitted only when a commercial *structure* exists on the *premises* or is a part of the proposed *development*. Residential use is restricted on the ground *floor* in accordance with Section 131.0540. The interim residential *density* shall not be counted towards the maximum allowable *density* of the underlying zone or *land use plan*. Interim ground *floor* residential may be permitted within existing commercial space in accordance with Process Two in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

- (a) The change of a *development* site from commercial to residential use shall be in compliance with the California Building Code and California Fire Code for the residential use at the time of the conversion.
- (b) The Neighborhood Use Permit shall expire no later than 10 years from the date of issuance.
- (c) No additional parking is required for interim ground *floor* residential use.
- (d) The decision maker shall make the findings in Section 126.0205(a) and (c).
- (e) Residential *development* permitted in accordance with this section is required to pay Development Impact Fees in accordance with Section 142.0640(b)(7).

*(“Interim Ground Floor Residential” added 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)*

*(Amended 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)*

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

**§141.0311 Live/Work Quarters**

Live/work quarters are studio spaces designed to integrate living space into the workspace and are primarily designed for industrial or commercial occupancy. The live/work quarters residential *density* shall not be counted towards the maximum allowable *density* of the underlying base zone or *land use plan*. Live/work quarters are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The minimum floor area of a live/work quarters shall be 500 square feet.
- (b) The minimum floor area used or arranged for non-residential purposes shall be 100 square feet.
- (c) Each live/work quarters shall be separated by walls from other live/work quarters or other uses in the building.
- (d) Access to the live/work quarters shall be provided only from common access areas, halls, or corridors and shall not be from other live/work quarters or other uses in the building.
- (e) Access to each live/work quarters shall be clearly identified in order to provide for emergency services.
- (f) The non-residential use shall be managed by the resident.
- (g) Live/work quarters shall not be used for classroom instructional use, storage of flammable liquids or hazardous materials, welding or any open-flame work.
- (h) The required parking spaces for the non-residential use shall be in compliance with Section 142.0560. The parking spaces shall not require designation for residential or non-residential uses.

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

*(Amended 9-18-2018 by O-20985 N.S.; effective 10-18-18.)*

*(Amended 3-11-2022 by O-21439 N.S.; effective 4-10-2022.)*

*(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)*

**[Editors Note:** Amendments as adopted by O-21836 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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**§141.0312 Residential Care Facilities**

Residential care facilities provide in-house treatment or rehabilitation programs for residents on a 24-hour basis. Residential care facilities include drug and alcohol rehabilitation and recovery facilities and residential and community care facilities as defined by the state or county.

Residential care facilities for 7 or more persons may be permitted as a limited use in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Sections 141.0312(a)-(h). Residential care facilities in zones designated with an “L” that are within 500 feet, measured by a walking distance along a pedestrian path of travel from *property line* to *property line*, from a *school*, *playground*, or *child care facility* may be permitted with a Conditional Use Permit decided in accordance with Process Three. Residential care facilities in zones designated with an “L” may be located on the same *premises* as a *child care facility* or on a *premises* adjacent to a *child care facility* and shall not be required to obtain a Conditional Use Permit if the residential care facility and *child care facility* are operated by the same *permit holder*.

Residential care facilities for 7 or more persons may be permitted with a Conditional Use Permit decided in accordance with Process Three, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Sections 141.0312(a)-(h).

- (a) Residential care facilities are not permitted in agricultural zones in *Proposition A Lands*.

- (b) Residential care facilities are not permitted within 500 feet of another residential care facility, measured from *property line to property line* in accordance with Section 113.0225.
- (c) The facility shall provide at least 70 square feet of sleeping space for each resident, not including closet or storage space, multipurpose rooms, bathrooms, dining rooms, and halls.
- (d) Sleeping areas shall not be used as a public or general passageway to another room, bath, or toilet.
- (e) The facility shall provide at least 5 square feet of living area per bed, not including sleeping space, dining, and *kitchen* areas.
- (f) The facility shall provide at least 8 square feet of storage area (closet or drawers) per bed.
- (g) The facility shall provide one full bathroom including sink, toilet, and shower or bathtub for every seven beds.
- (h) Conversion of an existing garage or reduction in the amount of off-*street* parking to provide a residential care facility is not permitted.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)

(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)

(Amended 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

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### §141.0313 Transitional Housing Facilities

Transitional housing facilities offer residential accommodations for a specified period of time, mental health support and counseling services, and other support services to prepare *families* and individuals for independent living. Transitional housing facilities do not include drug or alcohol in-house treatment or rehabilitation facilities, work furlough or probationary residential facilities, or emergency shelters.

Transitional housing facilities are permitted as a limited use in zones indicated with an “L” and may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations below. Section 112.0509(b) requiring a Planning Commission recommendation for Process Five applications shall not be applicable to transitional housing facilities.

- (a) Transitional housing is not permitted in agricultural zones in *Proposition A Lands*.
- (b) Only one transitional housing facility may be permitted per *lot* or *premises*.
- (c) The facility shall provide at least 70 square feet of sleeping space for each resident, not including closet or storage space, multipurpose rooms, bathrooms, dining rooms, and halls.
- (d) Sleeping areas shall not be used as a public or general passageway to another room, bath, or toilet.
- (e) The facility shall provide at least 5 square feet of living area per bed, not including sleeping space, dining areas, and *kitchen* areas.
- (f) The facility shall provide at least 8 square feet of storage area (closet or drawers) per bed.
- (g) The facility shall provide one full bathroom including sink, toilet, and shower or bathtub for every seven beds.
- (h) The name and emergency contact phone number of an operator or manager shall be posted outside the facility in a location visible to the public from the *public right-of-way* in character size at least two inches in height.
- (i) On-site supervision of the *premises* shall be provided at all times. At least one staff member shall be located on the *premises* 24 hours per day.
- (j) The *applicant* shall provide the City with a Description of Services and Property Management Plan to the satisfaction of the City Manager. Should any change to the proposed Description of Services and Property Management Plan occur after project construction, the project owner or manager shall provide the City with an updated plan within 90 days of the change. The Description of Services and Property Management Plan shall include all of the following:

- (1) Information regarding the supportive services that will be provided on-site or off-site to those residing on the *premises*, including:
  - (A) A description of the services to be provided;
  - (B) The location where the services will be provided;
  - (C) The name of the person or entity that will provide the services;
  - (D) The funding source for the services; and
  - (E) The number of employees.
- (2) Information regarding how the property will be managed, including:
  - (A) A plan to minimize loitering in the vicinity of the facility; and
  - (B) A litter control plan to provide for the removal of litter in the vicinity of the facility on a regular basis.

*(Added 12-9-1997 by O-18451 N.S.; amended 9-29-1998 by O-18589 N.S.; effective 1-1-2000.)*

*(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)*

*(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)*

#### **§141.0314 Watchkeeper's Quarters**

Watchkeeper's quarters are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Watchkeeper's quarters are permitted only as an *accessory use* to a use allowed by the zone.
- (b) Watchkeeper's quarters are permitted only within a permanent *structure*.
- (c) Watchkeeper's quarters shall not exceed 1,200 square feet in *gross floor area* and shall be included in the *floor area ratio* calculation for the *premises*.
- (d) Watchkeeper's quarters may include full living facilities, including a *kitchen*.

- (e) Except where associated with storage yards or mini-warehouses, watchkeeper’s quarters shall be attached to the rear of the primary *structure* or, if detached, shall be located between the rear *setback* and the primary *structure*.
- (f) The residential *density* from watchkeeper’s quarters shall not be counted towards the maximum allowable *density* of the underlying base zone or *land use plan*.

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

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

**[Editors Note:** Amendments as adopted by O-21836 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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### §141.0315 Permanent Supportive Housing

*Permanent supportive housing* is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

- (a) *Permanent supportive housing* units within the *development* shall have a recorded affordability restriction for no less than 55 years.
- (b) The name and emergency contact phone number of an operator or property manager shall be posted on the *premises* in a location visible to the public from the *public right-of-way* in character size at least two inches in height.
- (c) On-site supervision of the *premises* shall be provided at all times. At least one staff member of the operator or project manager shall be located on the *premises* 24 hours per day.
- (d) The *applicant* shall provide the City with a Description of Services and Property Management Plan to the satisfaction of the City Manager. Should any change to the proposed Description of Services and Property Management Plan occur after project construction, the project owner or manager shall provide the City with an updated plan within 90 days of the change. The Description of Services and Property Management Plan shall include all of the following:

- (1) Information regarding the supportive services that will be provided on-site or off-site to those residing on the *premises*, including:
  - (A) A description of the services to be provided;
  - (B) The location where the services will be provided;
  - (C) The name of the person or entity that will provide the services;
  - (D) The funding source for the services; and
  - (E) The number of employees.
- (2) Information regarding how the property will be managed, including:
  - (A) A plan to minimize loitering in the vicinity of the facility; and
  - (B) A litter control plan to provide for the removal of litter in the vicinity of the facility on a regular basis.

*(“Permanent Supportive Housing” added 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)*

**§141.0317 Low Barrier Navigation Center**

A low barrier navigation center means a Housing First, low-barrier, service enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low barrier” refers to best practices to reduce barriers to entry, including the presence of partners if it is not a population-specific site, pets, storage of possessions, and privacy.

A low barrier navigation center is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following requirements:

- (a) The navigation center shall offer services to connect people to permanent housing through a services plan that identifies services staffing.
- (b) The navigation center shall be linked to the San Diego Coordinated Entry System administered by the San Diego Regional Task Force on the Homeless or a comparable coordinated entry system administered in accordance with Section 576.400(d) or Section 578.7(a)(8) of Title 24 of the Code of Federal Regulations, as applicable and in effect on January 1, 2020.

- (c) The navigation center shall comply with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.
- (d) The navigation center shall have a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System, as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

*(“Low Barrier Navigation Center” added 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)*

**§141.0318 Movable Tiny Houses**

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

(a) *Development Regulations*

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

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

(2) *A movable tiny house shall not:*

- (A) be larger than allowed by California state law for movement on public highways;
- (B) exceed one story;
- (C) be able to move under its own power; or
- (D) have a separate address from the primary *dwelling unit*.

- (3) A *movable tiny house* shall be located:
  - (A) on a *premises* adjacent to a *public right-of-way* that is at least 20 feet wide. Exterior portions of a *movable tiny house* shall not be located more than 150 feet from the *public right-of-way*. A *movable tiny house* shall be accessed from the *public right-of-way* by a path that is at least 5 feet wide;
  - (B) behind or to the side of the primary *dwelling unit* and not in any front yard; and
  - (C) at a fire separation distance of at least 5 feet from an adjacent *lot* line and at least 10 feet from any other structures on the *premises*.
- (4) A *movable tiny house* shall not be located within:
  - (A) a brush management zone established pursuant to Section 142.0412; or
  - (B) the *MHPA*.
- (5) When sited on a *premises*, the undercarriage, including wheels, axles, tongue, and hitch, shall be concealed from view. The wheels shall not be removed and shall sit with leveling or support jacks on a paving surface designed in accordance with Section 142.0560(h)(1).
- (6) All mechanical equipment, including heating, ventilation, and air conditioning, shall be incorporated into the structure and not located on the roof.
- (7) A *movable tiny house* shall be connected to water, sewer, and electric utilities. Connections to natural gas are prohibited.
- (8) A *movable tiny house* shall comply with the National Fire Protection Association 1192 Standard on Recreational Vehicles or the American National Standards Institute A119.5 Park Model Recreational Vehicle Standard. A *movable tiny house* shall be certified by a recognized national certification body as complying with one of these standards and a certified label shall be placed on the *movable tiny house* to demonstrate compliance.

- (9) When located on a *premises* where the primary *dwelling unit* is protected with an automatic fire sprinkler system in accordance with Section R313 of the California Residential Code, a *movable tiny house* shall be protected with an automatic fire sprinkler system.
- (10) When located within the Very High Fire Hazard Severity Zone, as established pursuant to Chapter 5, Article 5, Division 94, a *movable tiny house* shall satisfy the following additional requirements:
  - (A) A *movable tiny house* shall be protected with an automatic fire sprinkler system in compliance with Section R313 of the California Residential Code even if located on a *premises* where the primary *dwelling unit* is not protected with an automatic fire sprinkler system;
  - (B) Exterior walls shall be constructed with ignition-resistant materials in compliance with Section R337 of the California Residential Code; and
  - (C) Glazed openings, including skylights, shall comply with Section R337 of the California Residential Code.
- (11) A *movable tiny house* shall be constructed to include the following design elements:
  - (A) Cladding and Trim: Materials used on the exterior shall not be single piece composite, laminates, or interlocked metal sheathing;
  - (B) Windows and Doors: Windows shall be at least double pane glass, labeled for building use, and include exterior trim. Windows and doors shall not have radius corners;
  - (C) Roofs: Roofs shall be sloped to drain over the roof edge. At least 50 percent of the roof area shall have a roof slope of 2:12 or more. Roof coverings shall comply with the Residential Building Regulations in Chapter 14, Article 9, Division 9; and
  - (D) Living Area Extensions: The roof and all exterior walls shall not be fixed with slide-outs, tip-outs, or other forms of mechanically articulating room area extensions.

- (12) Within the Coastal Overlay Zone, the following regulations apply to *movable tiny houses* constructed outside of Special Flood Hazard Areas and within an area of future sea level rise (with a 75-year horizon) as determined by the City Manager based on the Sea Level Rise Policy Guidance adopted by the California Coastal Commission, as it applies to residential *development*:
- (A) Hard shoreline armoring shall not be constructed to protect a *movable tiny house* from the effects of coastal hazards, including, but not limited to, sea level rise.
  - (B) The *record owner* of the *movable tiny house* shall enter into an acknowledgement agreement with the City in a form that is approved by the City Attorney. The agreement shall include the following acknowledgements and provisions:
    - (1) that the *movable tiny house* is located in an area of future sea level rise that may become hazardous in the future;
    - (2) that sea level rise could render it difficult or impossible to provide services to the site;
    - (3) that the boundary between public land (tidelands) and private land may shift with rising seas and the *development* approval does not permit encroachment onto public trust land;
    - (4) that additional adaptation strategies may be required in the future to address sea level rise consistent with the Coastal Act and certified *Local Coastal Program*;
    - (5) that the owner waives any rights under Coastal Act Section 30235 and related *Local Coastal Program* policies to hard shoreline armoring to protect the *movable tiny house*; and
    - (6) that the *structure* may be required to be removed or relocated and the site restored if it becomes unsafe.
  - (C) The *record owner* of the *movable tiny house* shall provide notice to all occupants of the *movable tiny house* of the acknowledgements and provisions specified in Section 141.0318(a)(12)(A) and (B).
- (13) *Moveable tiny houses* constructed within Areas of Future Sea Level Rise must comply with the regulations in Section 132.0404.

- (b) One *movable tiny house* may be permitted per *premises* in addition to *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* permitted in accordance with Section 141.0302, guest quarters, and non-habitable *structures*.
- (c) A *movable tiny house* shall not be used for a rental term of less than 30 consecutive days.

(“*Movable Tiny Houses*” added 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)  
(Amended 7-21-2022 by O-21477 N.S.; effective 9-7-2022.)  
(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

**§141.0319 Student Housing**

Student Housing are facilities designed and used as a residence for students enrolled at a college or university accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges, including student dormitories and student apartments. Student housing is permitted as a limited use in the zones indicated with a “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

- (a) Student housing may be permitted only in the following locations:
  - (1) Within an area specifically designated for these facilities by the applicable *land use plan*, or
  - (2) If the applicable *land use plan* does not contain a designated area, such facilities may be located within a 1-mile radius of the boundary of a *premise* operated as a college or university campus accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges, in any zone that allows *multiple dwelling unit* development, or
  - (3) Within a *Sustainable Development Area*, in any zone that allows *multiple dwelling unit* development.

- (b) Automobile and Bicycle Parking Regulations
  - (1) Automobile *off-street parking spaces* shall comply with Table 142-05C.
  - (2) Student housing located within a 1-mile radius of the boundary of a *premises* operated as a college or university campus accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges may meet the automobile *off-street parking space* requirement through a parking agreement between the *applicant* and the college or university. The parties involved shall provide the parking agreement in the form acceptable and to the satisfaction of the City Manager.
  - (3) Bicycle parking shall be located in enclosed and secure areas.
- (c) Occupancy Regulations
  - (1) Student housing subject to this Division shall be occupied exclusively by undergraduate, graduate, or professional students enrolled full time at a college or university accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges.
  - (2) The enrollment of a student in a college or university accredited by the Western Association of Schools and Colleges: Senior College and University Commission or the Accrediting Commission for Community and Junior Colleges shall be verified prior to occupancy by documentation submitted by the student or by the student housing operator on behalf of the student to the San Diego Housing Commission.
- (d) Onsite Management Regulations
  - (1) A resident manager is required to live on the student housing *premises*.
  - (2) At least one manager of the student housing operator shall be located and accessible on the student housing *premises* 24 hours per day.
- (e) Student Housing Amenity Regulations

- (1) A minimum of 10 percent of the *structures'* ground floor gross floor area, excluding leasing or manager offices, shall be dedicated to student amenities, including one or more of the following:
  - (A) Gyms,
  - (B) Community rooms,
  - (C) Shared resources for students such as computer labs, a shared *kitchen*, or community gardens, or
  - (D) Shared facilities such as study rooms or co-study spaces.
- (2) Student housing shall include onsite laundry facilities.

*(“Student Housing” added 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.

Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-21758-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-21758-SO.pdf) ]



## City of San Diego Accessory Dwelling Unit (ADU) Bonus Program Application Process San Diego Housing Commission (SDHC)

The City of San Diego ADU Bonus program allows additional ADUs to be built on a property after the owner has maximized the number of ADUs allowed by right. (To understand what is allowed on your site, see Section I.C. of the City of San Diego's [Information Bulletin 400](#).)

### What does the ADU Bonus Program allow?

- One additional unrestricted ADU is allowed for every deed-restricted ADU.
  - If your property is within the Transit Priority Area (TPA), there is no limit on the bonus ADUs (subject to space).
  - If your property is not within the TPA, the limit is two bonus ADUs - one restricted ADU and one unrestricted ADU.
- Property owners have the choice of Area Median Income (AMI) levels (very low, low, or moderate) for deed restrictions. Please see ADU rent and income chart.
- The affordable ADUs shall be comparable in size, bedroom mix, amenities and features to the market-rate ADU(s).
  - In projects where it is not possible to provide direct proportionality, the affordable units shall be either within one bedroom of the market-rate units (where the square footage is the same) or within 15 percent of the market-rate square footage (with the same bedroom count).

### What does the ADU Bonus Program require?

- Moderate-income, deed-restricted ADU(s) must have affordability restrictions in place for 15 years. Low-income, deed-restricted ADU(s) must have affordability restrictions for 10 years.
  - In a single-family zone, the affordability restriction will be on title in second lien position.
  - In a multifamily zone, the affordability restriction will be on title in first lien position.
- Property owners shall submit income verification to SDHC before tenant occupancy so SDHC can determine tenant eligibility. Tenants in the affordable unit shall provide income information annually to confirm continued eligibility.
- If tenants' incomes rise beyond the income limits, there is an income threshold at which tenants will be asked to vacate.
  - Very low- and low-income tenants' incomes can rise to low- and moderate-income, respectively.
  - Moderate-income tenants' income can rise up to 140 percent of AMI. After 140 percent of AMI, the tenant shall be given 180 notice to vacate.

- Prior to the end of the 10- and 15-year affordability restriction, tenants shall be provided with rent restriction expiration notices. Notices are required three years, 12 months, and six months prior to restriction expiration. Additional information about these notices can be found in [California Government Code 65863.10](#).

### **What is the ADU Bonus Program application process?**

- Owners will submit their project plans to the City of San Diego Development Services Department (DSD). DSD will provide the plans to SDHC for review. SDHC will provide project conditions to DSD and the applicant.
- Owners will submit the ADU Bonus Program application, supplemental attachments, and \$600 application fee (to cover Legal fees) directly to SDHC. Contact Ann Kern at [annk@sdhc.org](mailto:annk@sdhc.org) for a copy of the application.
- After the application has been reviewed, SDHC will provide drafts of the affordable housing agreement and deed of trust. Both documents will be recorded on the property.
- Once the documents have been recorded, SDHC will sign off on the building permit.

### **Are there other considerations to keep in mind?**

- The application process with SDHC can take several weeks to complete. Please plan accordingly.
- Owners will need to pay an annual monitoring fee (per deed-restricted unit) and submit income verification for the duration of affordability restrictions. The current annual fee is \$150 per unit.
- The rent limit for the restricted ADU(s) will be reduced by the utility allowance amount if those utilities are paid by the tenant.
  - The charts that show the rent and income limits and the utility allowances can be found on SDHC's website here: <https://www.sdhc.org/about-us/compliance-monitoring/>

For questions on the ADU Bonus Program process, please contact Ann Kern at [annk@sdhc.org](mailto:annk@sdhc.org).

For more information on ADUs, please see the following resources:

- [City of San Diego's Information Bulletin 400](#)
- [City of San Diego Companion Unit Handbook](#)
- [City of San Diego Affordable Housing Toolkit, ADU Bonus Program website](#)

## Links to Information about the City of San Diego ADU Bonus Program

### City Materials

1. [https://sandiego.hylandcloud.com/211agendaonlinecouncil/Documents/ViewDocument/Staff%20Report%20for%20-%20%20\(\).pdf?meetingId=6554&documentType=Agenda&itemId=247336&publishId=995006&isSection=false](https://sandiego.hylandcloud.com/211agendaonlinecouncil/Documents/ViewDocument/Staff%20Report%20for%20-%20%20().pdf?meetingId=6554&documentType=Agenda&itemId=247336&publishId=995006&isSection=false)
2. <https://sandiego.hylandcloud.com/211agendaonlinecouncil/Documents/ViewDocument/ADU%20and%20JADU%20Regulation%20Amendments%20List.pdf?meetingId=6554&documentType=Agenda&itemId=247336&publishId=995013&isSection=false>
3. <https://sandiego.hylandcloud.com/211agendaonlinecouncil/Meetings/ViewMeeting?id=6554&doctype=3&site=council>
4. <https://www.sandiego.gov/development-services/news-programs/programs/companion-junior-units#bonus>
5. <https://www.sdhc.org/wp-content/uploads/2022/04/ADU-Bonus-Program-Quick-Facts.pdf>

### Media Coverage of Program Updates in 2025:

6. <https://www.insidesandiego.org/ gloria-administration-proposes-reforms-adu-density-bonus-program-invites-public-feedback>
7. <https://www.kpbs.org/news/quality-of-life/2025/06/17/san-diego-city-council-approves-rollback-of-adu-incentives>
8. [https://snapadu.com/blog/affordability-bonus-guide-adu-program-san-diego/#Additional\\_Reforms\\_to\\_the\\_San\\_Diego\\_ADU\\_Bonus\\_Program](https://snapadu.com/blog/affordability-bonus-guide-adu-program-san-diego/#Additional_Reforms_to_the_San_Diego_ADU_Bonus_Program)
9. <https://www.neighborsforabettersandiego.org/2025-sd-bonus-adu-revisions-adopted>
10. <https://www.linkedin.com/pulse/san-diego-caps-adu-bonus-program-what-developers-need-andy-kaiser-8xz7c>
11. <https://www.fidentcapital.com/san-diego-caps-adu-bonus-program-what-developers-need-to-know/>
12. <https://www.sandiegouniontribune.com/2025/06/16/bonus-adu-incentive-rollback-vote/>
13. <https://timesofsandiego.com/politics/2025/06/17/coastal-residents-say-too-many-adus-ruin-neighborhoods/>
14. <https://fox5sandiego.com/news/local-news/san-diego-city-council-votes-to-begin-rolling-back-controversial-adu-program/>

## Links to Information about the City of San Diego ADU Bonus Program

15. <https://www.jdsupra.com/legalnews/san-diego-adu-incentive-rollback-sheds-4143139/>
16. <https://www.sandiegouniontribune.com/2025/06/13/developer-pursuing-120-unit-adu-farm-in-pacific-beach-just-as-city-prepares-to-roll-back-controversial-incentive/>

### Links that pre-date the 2025 reform to the program:

1. <https://calmatters.org/housing/2023/11/adu-san-diego/>
2. <https://turnercenter.berkeley.edu/research-and-policy/san-diego-adu-bonus-program/>
3. <https://www.neighborsforabettersandiego.org/bonus-adu-program>
4. Mayor's Message [https://c92f4009-7cd5-46ff-8380-2badc9a02bbd.usrfiles.com/ugd/c92f40\\_7b01e00ac0704cd2b0c56f6fbeb4e757.pdf](https://c92f4009-7cd5-46ff-8380-2badc9a02bbd.usrfiles.com/ugd/c92f40_7b01e00ac0704cd2b0c56f6fbeb4e757.pdf)