

RESOLUTION NUMBER 20-007 (PCS)

(Planning Commission Series)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA MONICA RECOMMENDING TO THE CITY COUNCIL THAT THE COUNCIL AMEND THE TEXT OF THE CITY'S ZONING ORDINANCE TO UPDATE PROVISIONS RELATED TO LARGE FAMILY DAY CARES; ACCESSORY DWELLING UNITS AND JUNIOR ACCESSORY DWELLING UNITS; AND STATE DENSITY BONUS AND AFFORDABLE HOUSING INCENTIVES FOR CONSISTENCY WITH STATE LAW

WHEREAS, the State is experiencing a severe housing crisis that is driving the cost of living beyond the reach of an increasing share of the population; and

WHEREAS, the City has long been committed to ensuring that Santa Monica is an inclusive and affordable community despite mounting market pressures; and

WHEREAS, through discussions that occurred as part of the adoption process for the City's major policy documents, including the Land Use and Circulation Element ("LUCE") of the City's General Plan in 2010, the current Housing Element in 2013, the City's new Zoning Ordinance, Chapters 9.01 through 9.52 of Article 9 of the Santa Monica Municipal Code ("Zoning Ordinance") in 2015, and the Downtown Community Plan in 2017, and recent amendments to the City's Affordable Housing Production Program, the City has identified the need for a variety of housing types to serve all household sizes at all income levels; and

WHEREAS, among the City's highest priorities is protection of the City's existing housing stock, particularly rent-controlled housing, while also promoting the production of housing that consists of both affordable and market rate units serving the full range of household sizes; and

WHEREAS, as a city with approximately 71% of its residents in rental housing, the City has maintained a long-standing commitment to protecting tenants and existing rental housing stock, particularly in rent-controlled housing; and

WHEREAS, recently, several new housing trends have emerged that seek to close the affordability gap, and as rents have continued to increase, housing providers have proposed increasingly creative models to allow the opportunity to live in Santa Monica; and

WHEREAS, on August 14, 2018, as part of direction to examine tenant protections for outdated definitions and compensations, and in light of rapidly-intensifying market pressures on local rents, Council directed staff to study what constitutes "corporate housing" and "short-term rentals" for purposes of the Santa Monica Municipal Code; and

WHEREAS, on December 18, 2018, the City Council conducted a study session on corporate housing in response to growing concerns about the erosion of the City's supply of affordable housing due to market pressures, expressing particular concern about adverse impacts of renovation of rent-controlled housing and the construction of new housing that appeared to be designed to facilitate temporary occupancy; and

WHEREAS, on October 9, 2019, the Governor signed 18 bills into law to stimulate housing production (the “2019 housing package”), including SB 330, establishing the Housing Crisis Act of 2019, which will accelerate housing production by streamlining permitting and approval processes, creating certain vested rights for housing projects, and ensuring no net loss in zoning capacity, and AB 1763, which amends the State Density Bonus Law to provide for increased density bonus incentives; and

WHEREAS, the 2019 housing package further includes AB 881, AB 68 and SB 13, which amend State law to further restrict a city’s ability to regulate accessory dwelling units and junior accessory dwelling units as a means of encouraging and increasing their production; and

WHEREAS, on September 5, 2019, the Governor signed SB 234, which prohibits a city from requiring zoning permits for large family daycare homes, and further limits a city’s ability to regulate family daycare homes in residential neighborhoods; and

WHEREAS, on December 4, 2019, the Planning Commission adopted a Resolution of Intention, Resolution Number 19-017, declaring its intention to consider recommending to the City Council that the City Council amend the text of the Zoning Ordinance related to state law changes related to density bonus, accessory dwelling units and large family day cares; and

WHEREAS, on March 18, 2020, the Planning Commission conducted a public hearing to consider its recommendations to the City Council.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SANTA MONICA DOES RESOLVE AS FOLLOWS:

SECTION 1. Proposed amendments to the text of the Zoning Ordinance.

Pursuant to Santa Monica Municipal Code Section 9.46.060(B), the Planning Commission does hereby recommend to the City Council that the City Council amend the text of the Zoning Ordinance, as set forth in Exhibit A, attached to this Resolution. In making this recommendation, the Planning Commission hereby finds and declares that, for the reasons articulated above, in the staff report dated March 4, 2020, and below:

1. The proposed amendments to the text of Zoning Ordinance to update provisions related to large family daycares, accessory dwelling units and junior accessory dwelling units, and density bonus for consistency with State law are consistent with the General Plan and any applicable Specific Plan in that the amendments implement the LUCE policies to support childcare, housing production, and 100% affordable housing through incentives for process and development potential. Specifically, Policy CE9.1 calls for the support of large family childcare homes by encouraging their harmonious integration into neighborhoods and the provision of incentives such as streamlines processing and permit regulations. With respect to accessory dwelling units, the LUCE specifically establishes that accessory dwelling units are permitted in single family housing designations. Further, Policies LU11.3 and LU11.6 seek to provide incentives for affordable housing with a focus on process streamlining, bonuses, and flexible standards. The proposed amendments also support housing production

through process incentives for projects that comply with objective standards in the zoning ordinance.

2. The proposed amendments are consistent with the purposes of the Zoning Ordinance in that they update provisions related to large family daycares, accessory dwelling units, and density bonus for consistency with State law, promote the growth of the City in an orderly manner, and promote and protect the public health, safety, and general welfare.

SECTION 2. The Director of Planning and Community Development shall certify to the adoption of this Resolution, and thenceforth and thereafter the same shall be in full force and effect.

APPROVED AS TO FORM:

GEORGE S. CARDONA
Interim City Attorney

Adopted this 13th day of May, 2020.

Chair, Planning Commission

I hereby certify that the foregoing Resolution of Intention was duly and regularly introduced and approved at a meeting of the Planning Commission on the 13th day of May, 2020 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

Director of Planning and Community Development

EXHIBIT A

PROPOSED CHANGES TO THE TEXT OF THE ZONING ORDINANCE TO
REGULATIONS FOR LARGE FAMILY DAY CARES; ACCESSORY DWELLING UNITS
AND JUNIOR ACCESSORY DWELLING UNITS; AND STATE DENSITY BONUS AND
AFFORDABLE HOUSING INCENTIVES

Exhibit A-1

Proposed Changes to Regulations for Large Family Day Cares

[behind this page]

#1 Modify the following language in SMMC Section 9.31.140:

Section 9.31.140 Family Day Care, Large

The purpose of these standards is, consistent with Sections 1596.70-1596.7996 of the Health and Safety Code, to ensure that Large Family Day Cares in Residential Districts do not adversely impact the adjacent neighborhoods. While Large Family Day Cares are needed by residents of the City, especially in close proximity to their homes in residential neighborhoods, the potential traffic, noise and safety impacts of this use should be regulated in the interest of nearby residents and the children in the day care facility. It is also the intent of this Section to allow Large Family Day Cares in residential surroundings to give children a home environment that is conducive to healthy and safe development. The following standards shall apply to Large Family Day Cares.

A. Structures. A Large Family Day Care shall conform to all property development standards of the Zoning District in which it is located unless otherwise provided in this Section.

B. Noise. The operation of a Large Family Day Care shall comply with noise standards contained in Chapter 4.12, Noise, of the Municipal Code. Noise from the operation of any Large Family Day Care may not exceed that which is customary in residential neighborhoods during daytime hours. Prolonged and abnormally loud noises shall not be considered customary, while the periodic sounds of small groups of children at play shall be considered customary in residential neighborhoods from 8:00 a.m. until 9:00 p.m.

C. Hours of Operation. Large Family Day Cares shall not be limited in hours or days of operation. ~~No outdoor play is allowed before 8:00 a.m. or after 8:00 p.m. or sunset, whichever comes first, on weekdays and 9:00 a.m. to 8:00 p.m. or sunset, whichever comes first, on weekends.~~

D. On-Site Parking. On-site parking for Large Family Day Cares shall not be required except for that required for the residential building in accordance with Chapter 9.28, Parking, Loading, and Circulation.

E. Passenger Loading. Curbside loading shall be presumed adequate for drop-off and pick-up of children. A passenger loading plan shall be required in accordance with Section 9.28.080(C) subject to the approval of the Director.

F. Lighting. Lighting must conform to Section 9.21.080, Lighting. In addition, passenger loading areas may be illuminated. If a passenger loading area is illuminated, the lighting shall be directed away from adjacent properties and of an intensity compatible with the residential neighborhood.

G. ~~Screening of Outdoor Play Areas. A solid fence at least 4 feet in height shall be provided to screen rear setback outdoor play areas of a Large Family Day Care from~~

~~adjacent residential properties. Fences shall comply with Section 9.21.050, Fences, Walls, and Hedges.~~

~~H. Residency. The operator of a Large Family Day Care must be a full-time resident of the dwelling unit in which the day care is located.~~

~~H.I. State and Other Licensing. All Large Family Day Cares shall be State licensed and operated according to all applicable State and local regulations.~~

~~J. Concentration of Uses. No more than one Large Family Day Care shall be permitted within 300 linear feet of the property line of any existing Large Family Day Care.~~

Exhibit A-2

Proposed changes to Regulations for Accessory Dwelling Units and Junior Accessory Dwelling Units

[Behind this Page]

#1 Modify the following language in SMMC Section 9.04.100:

9.04.100 Determining Residential Parcel Coverage

Parcel coverage is the ratio of the total footprint area of all structures on a parcel to the parcel area, typically expressed as a percentage. Areas directly below projections as identified in Section 9.21.110 that are not within minimum setback areas shall be considered part of the footprint area of a story for purposes of calculating parcel coverage for that story. Areas directly below a fully-enclosed second-story cantilever shall be considered part of the ground floor footprint area for purposes of calculating ground floor parcel coverage. Areas in any single-story portion of the building that exceed the height of the second story shall be considered part of the second-story footprint area for purposes of calculating second-story parcel coverage. Areas covered by or directly below the following shall be excluded from the footprint area for purposes of determining parcel coverage:

A. Permitted projections into minimum setback areas pursuant to Section 9.21.110;

B. Eaves, awnings, canopies, sun shades, sills, cornices, belt courses, or other similar solid architectural features not within minimum setback areas project up to the same distances as permitted pursuant to Section 9.21.110;

C. Greenhouse windows, bay windows, or similar architectural features not within minimum setback areas projecting to the same dimensions as permitted pursuant to Section 9.21.110;

D. First-story roofed front porches of principal buildings that are open on at least the front and one side elevation not within minimum setback areas;

E. Upper-story stepback areas that are open to the sky or covered by a roof structure that is at least 50% open to the sky;

F. First-story outdoor areas open on at least two sides that are covered or below a permitted upper-story outdoor space;

G. Projecting upper-story outdoor space not within minimum setback areas open on at least two contiguous sides and open to the sky or covered by a roof structure that is at least 50% open to the sky;

H. Within the R1 District, accessory dwelling units as defined in Section 9.31.025300;

I. Within the R1 District, areas totaling no more than 3% of the parcel area directly below a fully enclosed second-story cantilever; and

J. Within the R1 District, accessory structures that are open to the sky or covered by a roof structure that is at least 50% open to the sky.

#2 Modify the following language in SMMC Section 9.07.010:

9.07 Single-Unit Residential District

Section 9.07.010 Purpose

A. Provide for single-unit housing on individual parcels at densities of one unit plus one ~~attached or detached~~ accessory dwelling unit and one junior accessory dwelling unit to suit the spectrum of individual lifestyles and space needs and ensure continued availability of the range of housing opportunities necessary to meet the needs of all segments of the community consistent with the General Plan and State law.

R1 Single-Unit Residential. To provide areas for single-unit housing on individual parcels at densities of one unit plus one ~~attached or detached~~ accessory dwelling unit and one junior accessory dwelling unit per legal parcel. In addition to detached single-unit homes, ~~and accessory dwelling units,~~ and junior accessory dwelling units this District provides for uses such as parks and family day care that may be integrated into a residential environment.

#3 Modify the following language in SMMC Section 9.07.020:

9.07 Single-Unit Residential District

9.07.020 Land Use Regulations

TABLE 9.07.020: LAND USE REGULATIONS—R1 SINGLE-UNIT RESIDENTIAL DISTRICTS		
Use Classification	R1	Additional Regulations
Residential Housing Types		
<i>Accessory Dwelling Unit</i>	P	Section 9.31.025 9.31.300 , Accessory Dwelling Units <u>and Junior Accessory Dwelling Units</u>
<i>Junior Accessory Dwelling Unit</i>	<u>P</u>	Section 9.31.025 9.31.300 , Accessory Dwelling Units <u>and Junior Accessory Dwelling Units</u>

#4 Modify the following language in SMMC Section 9.07.030:

9.07 Single-Unit Residential District

9.07.030 Development Standards

TABLE 9.07.030: DEVELOPMENT STANDARDS—R1 SINGLE-UNIT RESIDENTIAL DISTRICTS		
Standard	R1	Additional Regulations
Parcel and Density Standards		
Maximum Residential Density	1 unit per parcel plus 1 accessory dwelling unit and 1 junior accessory dwelling unit subject to Section 9.31.025 300	A duplex may be permitted with an MUP as provided in Table 9.07.020
Accessory Dwelling Unit	Exempt from Parcel Coverage	See Section 9.31.300
Additional Standards		
Accessory Dwelling Units	Section 9.31.330 025 , Accessory Dwelling Units and Junior Accessory Dwelling Units	
Junior Accessory Dwelling Units	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units	

B. *Accessory Dwelling Units and Junior Accessory Dwelling Units.* Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#5 Modify the following language in SMMC 9.08.010:

9.08 Multi-Unit Residential District

Section 9.08.010 Purpose

R2 Low Density Residential. This Zoning District is intended to provide areas for a variety of low-density housing types. These include single-unit housing, duplexes and

triplexes, low-scale multi-unit housing, townhouses, and courtyard housing with at least 2,000 square feet of parcel area per unit exclusive of City and State density bonuses. Accessory dwelling units and junior accessory dwelling units are also permitted. In addition to low density residential development, this District provides for uses such as transitional housing or hospice facilities, family day care, and neighborhood serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

R3 Medium Density Residential. This Zoning District is intended to provide areas for a variety of multi-unit housing types with at least 1,500 square feet of parcel area per unit exclusive of City and State density bonuses or 1,250 square feet of parcel area per unit, not including City and State density bonuses, for projects that provide identified community benefits. Types of dwelling units include single-unit housing, low- and medium-scale multi-unit housing, townhouses, courtyard housing, and duplexes and triplexes. Accessory dwelling units and junior accessory dwelling units are also permitted. This District also provides for residential facilities such as transitional housing and hospice facilities, family day care, and neighborhood serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

R4 High Density Residential. This Zoning District is intended to provide areas for multi-unit housing at greater intensities than other residential districts. Housing types include single-unit housing, three- to four-story multi-unit housing projects, duplexes, and triplexes with at least 1,250 square feet of parcel area per unit exclusive of City and State density bonuses or 900 square feet of parcel area per unit, not including City and State density bonuses for projects that provide identified community benefits. Accessory dwelling units and junior accessory dwelling units are also permitted. This District also provides for residential facilities such as assisted living, transitional housing, and hospice facilities, hotels, family day care, and neighborhood serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

#6 Modify the following language in SMMC Section 9.08.020:

9.08 Multi-Unit Residential District

9.08.020 Land Use Regulations

TABLE 9.08.020: Land Use Regulations				
Use Classification <i>*For uses in specified areas, see Section 9.08.030(A)</i>	R2*	R3*	R4	Additional Regulations
Residential Uses				
Residential Housing Types	See Sub-classifications below.			
<u>Second Dwelling Unit</u>	P	P	P	Section 9.31.300 , Second Dwelling Units
<u>Accessory Dwelling Unit</u>	P	P	P	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units
<u>Junior Accessory Dwelling Unit</u>	P	P	P	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units

#7 Modify the following language in SMMC Section 9.08.030:

9.08 Multi-Unit Residential District

9.08.030 Development Standards

TABLE 9.08.030: Development Standards				
Standard <i>*For uses in specified areas, see Section 9.08.030(A)</i>	R2*	R3*	R4	Additional Regulations
Additional Standards				
<u>Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units			
<u>Junior Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units			

A. Development Standards, Specified Areas. The following development standards shall govern in the areas defined below.

1. For Multi-Unit Residential District Parcels located north of the Pier and west of Ocean Avenue, the following development standards shall apply in lieu of the corresponding land use regulations specified in Table 9.08.020 and development standards specified in Table 9.08.030:

a. Uses

i. **Permitted Uses:** One Single-Unit Dwelling per lot placed on a permanent foundation (including Manufactured Housing); Accessory Dwelling Unit; Junior Accessory Dwelling Unit; Single-Room Occupancy Housing; Congregate Housing; Senior Citizen Multiple-Unit Residential; Senior Group Residential; Family Day Care, Small; Supportive Housing; Transitional Housing; Hospice, Limited; One-story accessory building and structures up to 14 feet in height; Public parks and playgrounds.

2. For Multi-Unit Residential District parcels bounded by Neilson Way to the east, Ocean Park Boulevard to the south, Barnard Way to the west, and up to and including the parcels on the north side of Wadsworth Avenue to the north, the following development standards shall apply in lieu of the corresponding land use regulations specified in Table 9.08.020 and development standards specified in Table 9.08.030:

a. Uses.

i. **Permitted Uses:** One Single Unit Dwelling per parcel on a permanent foundation (including Manufactured Housing); one Duplex (including a detached second unit when located on a parcel containing one Single Unit Dwelling) on any legal parcel that existed on August 31, 1975; Accessory Dwelling Unit; Junior Accessory Dwelling Unit; Family Day Care, Small; Family Day Care, Large; Hospice, Limited; Supportive Housing, Transitional Housing; Public Parks and Playgrounds.

3. For Multi-Unit Residential District parcels bounded by Appian Way to the east, Vicente Terrace to the south, Ocean Front Walk to the west, and Seaside Terrace to the north, the following development standards shall apply in lieu of the corresponding land use regulations specified in Table 9.08.020 and development standards specified in Table 9.08.030:

a. Uses.

i. **Permitted Uses:** Single-Unit Dwellings placed on a permanent foundation (including Manufactured Housing); Multi-Unit Dwellings; Accessory Dwelling Unit; Junior Accessory Dwelling Unit; Single-Room Occupancy Housing; Congregate Housing; Senior Citizen Multiple-Unit Residential; Senior Group Residential; Family Day Care, Small; Supportive Housing; Transitional Housing; Hospice, Limited; One-story

accessory building and structures up to 14 feet in height; Public parks and playgrounds.

H. Accessory Dwelling Units and Junior Accessory Dwelling Units.

Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#8 Modify the following language in SMMC Section 9.09.010:

9.09 Ocean Park Neighborhood District

9.09.010 Purpose

OP1 Ocean Park Single Unit Residential. This Zoning District is intended to maintain areas where single unit housing predominates. This District allows for single unit housing on individual parcels at densities of one unit plus one accessory dwelling unit and one junior accessory dwelling unit per legal parcel. In addition to detached single unit ~~homesdwellings, -and~~ accessory dwelling units, and junior accessory dwelling units, this District provides for uses such as parks and family day care that may be appropriate in a residential environment.

OPD Ocean Park Duplex Residential. This Zoning District is intended to maintain areas where single unit and duplex residential uses predominate and is in particular, intended to preserve the unique characteristics of the Copeland Court walk street. In addition to detached single unit ~~homesdwellings, accessory dwelling units, junior accessory dwelling units,~~ and duplexes ~~at a maximum density of two units on an individual parcel,~~ this District provides for uses such as parks and family day care, transitional housing, hospice facilities, and neighborhood serving uses such as childcare and community facilities that may be appropriate in a residential environment.

OP2 Ocean Park Low Density Residential. This Zoning District is intended to provide a variety of low-density housing types that reflects the distinct identity of the Ocean Park neighborhood. These types include single unit ~~housingdwellings, accessory dwelling units, junior accessory dwelling units,~~ duplexes and triplexes, townhouses, and courtyard housing with at least 2,000 square feet of parcel area per unit exclusive of City and State density bonuses. In addition to low density residential development, this District provides for uses such as transitional housing or hospice facilities, family day care, and neighborhood serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

OP3 Ocean Park Medium Density Residential. This Zoning District is intended to maintain a variety of multi-unit housing types with at least 1,500 square feet of parcel area per unit or 1,250 square feet of parcel area per unit for projects that provide identified community benefits. Types of dwelling units include low- and medium-scale single-unit dwelling housing, multiple-unit housing dwellings, townhouses, courtyard housing, and duplexes, and triplexes, accessory dwelling units, and junior accessory dwelling units. This District also provides for residential facilities such as transitional housing and hospice facilities, family day care, and neighborhood serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

OP4 Ocean Park High Density Residential. This Zoning District is intended to provide areas for multi-unit housing at greater intensities than other Ocean Park Neighborhood districts. Housing types include single-unit dwelling housing, three- to four-story multi-unit housing projects, duplexes, and triplexes, accessory dwelling units, and junior accessory dwelling units. ~~with at least 1,250 square feet of parcel area per unit or 900 square feet of parcel area per unit for projects that provide identified community benefits.~~ This District also provides residential facilities such as assisted living, transitional housing, and hospice facilities, family day care, hotels, and neighborhood-serving uses such as childcare, neighborhood grocery stores, and community facilities that may be appropriate in a residential environment.

#9 Modify the following language in SMMC Section 9.09.020:

9.09 Ocean Park Neighborhood District

9.09.020 Land Use Regulations

TABLE 9.09.020: Land Use Regulations					
Use Classification	OP1	OP2	OP3	OP4	Additional Regulations
Residential Uses					
Residential Housing Types	<i>See Sub-classifications below.</i>				
<i>Accessory Dwelling Unit</i>	P	P	P	P	Section 9.31.025 <u>9.31.300</u> , <u>Accessory Dwelling Units and Junior Accessory Dwelling Units</u>
<i>Junior Accessory Dwelling Unit</i>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

#10 Modify the following language in SMMC Section 9.09.030:

**9.09 Ocean Park Residential Neighborhood District
9.09.030 Development Standards**

TABLE 9.09.030: Development Standards					
Standard	OP1	OP2	OP3	OP4	Additional Regulations
Additional Standards					
<u>Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units				
<u>Junior Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units				

H. Accessory Dwelling Units and Junior Accessory Dwelling Units.
Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#11 Modify the following language in SMMC Section 9.10.040:

9.10 Downtown Districts

9.10.040 Land Use regulations

TABLE 9.11.040: Land Use Regulations								
Use Classification	LT	NV	BC (Promenade)	BC (2nd & 4th Streets)	TA	OT	WT	Additional Regulations
Residential Uses								
Residential Housing Types	<i>See Sub-classifications below.</i>							
<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>
<u>Junior Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

#12 Modify the following language in SMMC Section 9.11.020:

9.11 Mixed-Use and Commercial Districts

9.11.020 Land Use Regulations

TABLE 9.11.020: Land Use Regulations					
Use Classification	MUBL	MUB	GC	NC	Additional Regulations
Residential Uses					
Residential Housing Types	<i>See Sub-classifications below.</i>				
<u>Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>
<u>Junior Accessory Dwelling Unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

#13 Modify the following language in SMMC Section 9.11.030:

9.11 Mixed-Use and Commercial Districts

9.11.030 Development Standards

TABLE 9.11.030: Development Standards—Commercial and Mixed-Use Corridor Districts					
Standard	MUBL	MUB	GC	NC	Additional Regulations
Additional Standards					
<i><u>Accessory Dwelling Units</u></i>					<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>
<i><u>Junior Accessory Dwelling Units</u></i>					<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

G. Accessory Dwelling Units and Junior Accessory Dwelling Units.

Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#14 Modify the following language in SMMC Section 9.13.020:

9.13 Employment Districts

9.13.020 Land Use Regulations

TABLE 9.13.020: Land Use Regulations				
Use Classification	IC	OC	HMU	Additional Regulations
Residential Uses				
Residential Housing Types	<i>See Sub-classifications below.</i>			
<u>Accessory Dwelling Unit</u>	==	-	P	Section 9.31.025, <u>Accessory Dwelling Units and Junior Accessory Dwelling Units</u>
<u>Junior Accessory Dwelling Unit</u>	==	==	P	Section 9.31.025, <u>Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

#15 Modify the following language in SMMC Section 9.13.030:

9.13 Employment Districts

9.13.030 Development Standards

TABLE 9.13.020: Land Use Regulations				
Standard	IC	OC	HMU	Additional Regulations
Additional Standards				
<u>Accessory Dwelling Units</u>	Section 9.31.025, <u>Accessory Dwelling Units and Junior Accessory Dwelling Units</u>			
<u>Junior Accessory Dwelling Units</u>	Section 9.31.025, <u>Accessory Dwelling Units and Junior Accessory Dwelling Units</u>			

G. Accessory Dwelling Units and Junior Accessory Dwelling Units. Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit

dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#16 Modify the following language in SMMC Section 9.14.020:

9.14 Oceanfront District

9.14.020 Land Use Regulations

TABLE 9.14.020: Land Use Regulations		
Use Classification	OF	Additional Regulations
Residential Uses		
Residential Housing Types	<i>See Sub-classifications below.</i>	
<u>Accessory Dwelling Unit</u>	P	Section 9.31.025 9.31.300 , Accessory Dwelling Units and Junior Accessory Dwelling Units
<u>Junior Accessory Dwelling Unit</u>	<u>P</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units

#17 Modify the following language in SMMC Section 9.14.030:

9.14 Oceanfront District

9.13.030 Development Standards

TABLE 9.14.030: Development Standards		
Standard	OF	Additional Regulations
Additional Standards		
<u>Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units	
<u>Junior Accessory Dwelling Units</u>	Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units	

G. Accessory Dwelling Units and Junior Accessory Dwelling Units. Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. For each parcel with a proposed or

existing single-unit dwelling, one accessory dwelling unit and one junior accessory dwelling unit shall be exempt from any parcel coverage standard set forth above. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#18 Modify the following language in SMMC Section 9.15.020:

9.15 Public and Semi-Public Districts

9.15.020 Land Use Regulations

TABLE 9.15.020: Land Use Regulations				
Use Classification	CC	PL	OS	Additional Regulations
Residential Uses				
Residential Housing Types	<i>See Sub-classifications below.</i>			
<u>Accessory Dwelling Unit</u>	<u>P</u>			<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>

#19 Modify the following language in SMMC Section 9.15.030:

9.15 Public and Semi-Public Districts

9.15.030 Development Standards

TABLE 9.15.030: Development Standards				
Standard	CC	PL	OS	Additional Regulations
Additional Standards				
<u>Accessory Dwelling Units</u>	<u>Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units</u>			

G. Accessory Dwelling Units. Notwithstanding any density, height, setback, or parking standard set forth above, an accessory dwelling unit and junior accessory dwelling unit may be established in accordance with the development standards set forth in Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. In accordance with Subsection 9.31.025(N), for each parcel an existing multiple-unit dwelling, one accessory dwelling unit that does not exceed 800 square feet shall be exempt from any parcel coverage standard set forth above.

#20 Modify the following language in SMMC Section 9.21.020:

9.21.020 Accessory Structures

B. Dwelling Units in Accessory Buildings. An accessory building on a parcel occupied or proposed to be occupied by a single-unit or multiple-unit detached dwelling structure may only be used as a separate dwelling unit in compliance with the requirements of Section 9.31.~~025300~~, Accessory Dwelling Units and Junior Accessory Dwelling Units.

C. Accessory Buildings up to 14 Feet in Residential Districts. Accessory buildings and structures not more than 14 feet or one story in height shall conform to the following standards:

4. **Facilities.** Except for accessory dwelling units established in compliance with Section 9.31.~~025300~~, Accessory Dwelling Units and Junior Accessory Dwelling Units ~~Section 9.31.300~~ of this Code, accessory buildings may not contain kitchens or full baths. An accessory building that is not an approved accessory dwelling unit may contain a sink and toilet, but may not contain a shower or tub enclosure. A shower that is outside and unenclosed is permitted.

D. Accessory Buildings over One Story or 14 Feet in Residential Districts. Accessory buildings that exceed 14 feet or one story in height shall conform to the following standards:

1. **Maximum Floor Area.** The total floor area of an accessory building that exceeds 14 feet or one story in height shall not exceed 650 square feet including any area approved for use as a garage. No accessory building shall have a second floor that exceeds 250 square feet in size. Accessory dwelling units are exempt from this requirement pursuant to Section 9.31.~~025300~~, Accessory Dwelling Units and Junior Accessory Dwelling Units ~~Section~~.

4. **Exterior Features.** In the Single-Unit Residential (R1) District, first-story roof decks, landings, upper level walkways, and balconies on accessory buildings, not including accessory dwelling units ~~Section 9.31.025300~~, Accessory Dwelling Units and Junior Accessory Dwelling Units, shall not exceed 35 square feet in area and must be set back at least 25 feet from the side property line closest to the structure, and at least 25 feet from the rear property line. Roof decks above the second story are prohibited.

6. **Kitchen.** The accessory building shall not contain a kitchen unless specifically permitted as an accessory dwelling unit pursuant to Section 9.31.~~025300~~, Accessory Dwelling Units and Junior Accessory Dwelling Units.

7. **Full Bath.** The accessory building may contain a sink and toilet, but shall not contain a shower or tub enclosure unless specifically permitted as an accessory dwelling unit pursuant to Section 9.31.025300, Accessory Dwelling Units and Junior Accessory Dwelling Units. A shower that is located outside and unenclosed may be permitted.

8. **Renting.** No accessory building shall be rented for any purpose or otherwise used as an accessory dwelling unit unless specifically pursuant to Section 9.31.025300, Accessory Dwelling Units and Junior Accessory Dwelling Units.

#21 Modify the following language in SMMC Section 9.28.060:

9.28.060 Off-Street Parking

Off-street parking shall be provided in the quantities specified in Table 9.28.060, except as otherwise provided in this Chapter and Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units. If a proposed use is not listed in the table, the Director may determine appropriate parking requirements.

TABLE 9.28.060: PARKING REGULATIONS BY USE AND LOCATION			
Land Use Classification	Citywide (Excluding Parking Overlay Area 1, Downtown Community Plan Area, and Bergamot Area Plan Area)	Parking Overlay Area 1	Downtown Community Plan Area (maximum parking allowed)
Residential Uses			
<i>Single Unit Dwelling</i>	2 spaces per dwelling unit	2 spaces per unit, which may be tandem	2 spaces per dwelling unit
<i>Second Dwelling Unit</i>	1 space per dwelling unit	1 space per dwelling unit	N/A
<i>Accessory Dwelling Unit</i>	<u>1 space per dwelling unit</u>	<u>1 space per dwelling unit</u>	<u>N/A</u>
<i>Junior Accessory Dwelling Unit</i>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>

#22 Delete SMMC Section 9.31.300 and add 9.31.025 with the following language:

9.31.025 Accessory Dwelling Units and Junior Accessory Dwelling Units

Notwithstanding the accessory structure standards of Section 9.21.020, accessory dwelling units and junior accessory dwelling units shall be developed, located, and operated in accordance with the following standards.

A. Purpose. The purpose of this section is to allow and regulate accessory dwelling units and junior accessory dwelling units in compliance with California Government Code sections 65852.2 and 65852.22 and, in doing so, to increase the supply of affordable housing in the City. This section shall not be considered in the application of any City ordinance, policy, or program to limit residential growth.

B. Accessory Dwelling Unit. Accessory dwelling unit (ADU) means an attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and that is located on a parcel with a proposed or existing primary single-unit or multi-unit dwelling. An ADU also includes: (1) an efficiency unit, as defined in Section 17958.1(b) of the Health and Safety Code; or (2) a manufactured home, as defined in Section 18007 of the Health and Safety Code. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary single-unit or multiple-unit dwelling is or will be situated. An ADU shall contain a kitchen and full bathroom separate from the primary dwelling(s) and accessible only to the inhabitants of the ADU. An ADU shall not have interior access to an existing or proposed single-unit dwelling or unit within a multiple-unit dwelling and shall have exterior access that is independent of that for any single-unit dwelling or unit within a multiple-unit dwelling.

C. Junior Accessory Dwelling Unit. Junior accessory dwelling unit (JADU) means a dwelling unit that is no more than 500 square feet in size and is contained entirely within an existing or proposed single-unit dwelling. A JADU shall include a separate entrance from the main entrance to the proposed or existing single-unit dwelling, but may also provide internal access, and shall include an efficiency kitchen, which shall include (1) a cooking facility with appliances and (2) a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU. A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. For purposes of providing service for water, sewer, or power, or for fire or life protection, a JADU shall not be considered a separate or new dwelling unit.

D. ADU and JADU Uses Permitted By Right. An ADU or JADU that conforms to all standards of this Section shall be permitted by right, shall be deemed to be consistent with the City's general plan and zoning designation for the parcel on which the ADU or JADU is located, and shall be deemed to meet the allowable density for the parcel on which the ADU or JADU is located.

E. Procedures. If an ADU or JADU complies with the requirements of this Chapter, development is by right and only a building permit is required. Correction of nonconforming zoning conditions will not be required as a condition of approval, except that the City is not prohibited from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12. An application to create an ADU or JADU submitted with a permit application to create a new dwelling on the parcel shall be acted upon when or before the application for the new dwelling is acted upon. An application to establish or construct an ADU or JADU on a parcel that contains an existing single-unit or multiple-unit dwelling shall be deemed complete if not acted on within 60 days from the date that the application is complete, except that the applicant may request a delay and the 60-day time period shall be tolled for the period of the delay.

F. Location. An ADU or JADU that meets the requirements of this Section may be established on any legal parcel that is zoned to allow for single-unit or multiple-unit dwelling residential use and on which a primary single-unit dwelling or multiple-unit dwelling has been previously established or is proposed to be established in conjunction with construction of the ADU or JADU. Except as set forth in subsection (G)(1) below, no more than one ADU and one JADU is permitted per parcel.

G. Permitted ADUs and JADUs.

1. Parcel with Single-Unit Dwelling. One ADU or one JADU may be permitted on any parcel on which a single-unit dwelling has been previously established or is proposed to be constructed in conjunction with establishment or construction of the ADU or JADU as provided in this subsection, except that one JADU permitted under paragraph (b) below and one detached ADU permitted under paragraph (c) or (d) below may be established and located on the same parcel.

a. Conversion of Floor Area of Existing or Proposed Single-Unit Dwelling to an Attached ADU or Newly Constructed Attached ADU. One attached ADU may be constructed or established within the floor area of an existing or proposed single-family dwelling. If an ADU permitted under this subsection converts floor area of an existing single-unit dwelling that is located in the front setback, the ADU may expand the footprint of the single-unit dwelling within the front setback up to 150 square feet only to accommodate ingress and egress.

b. Conversion of Floor Area of Existing or Proposed Single-Unit Dwelling to a JADU. One JADU may be constructed or established within the floor area of an existing or proposed single-family dwelling. A JADU constructed or established under this paragraph may expand the footprint up to 150 square feet only to accommodate ingress and egress.

c. Conversion of Floor Area of a Legal Existing Detached Accessory Structure to a Detached ADU. One ADU may be permitted within a legally established detached accessory structure or a structure reconstructed in the same location and to the same dimensions as the original structure. An addition to or enlargement of a nonconforming accessory structure shall be permitted if the addition or enlargement is made to conform to all standards set forth in this section. For existing accessory structures located in the front setback, the ADU may only expand the footprint up to 150 square feet only to accommodate ingress and egress.

d. Newly Constructed Detached ADU. One detached, new-construction ADU may be permitted. Detached ADUs permitted under this subsection shall be located a minimum of six (6) feet from the existing single-unit dwelling, as measured between exterior walls.

2. Parcel with Existing Multiple-Unit Dwelling. One or more ADUs may be permitted on a parcel with an existing multiple-unit dwelling as set forth in this subsection. ADUs permitted under paragraphs (a) and (b) below may be located on the same parcel.

a. Conversion of Existing Multiple-Unit Dwelling Footprint to ADUs. One or more ADUs may be permitted within portions of existing multiple-unit dwelling structures that are not used as livable space and are enclosed on at least three sides, such as storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one unit, or up to 25 percent of the existing multiple-unit dwelling total unit count, whichever is greater, may be permitted under this subsection.

b. Detached ADUs on Multiple-Unit Parcel. No more than two detached ADUs may be permitted on a parcel that has an existing multiple-unit dwelling. A detached ADU permitted under this paragraph shall be located a minimum of six (6) feet from existing multiple-unit dwelling(s), as measured between exterior walls.

H. Size. The following unit size limits apply to ADUs and JADUs:

1. The minimum size of an ADU or JADU is 220 square feet of floor area;

2. The maximum size of a detached or attached studio or one-bedroom ADU is 850 square feet of floor area;

3. The maximum size of a detached or attached ADU with more than one-bedroom is 1,000 square feet of floor area;

4. The floor area of an attached ADU shall not exceed 50 percent of the floor area of the primary dwelling;

5. The maximum size of a JADU is 500 square feet of floor area;

6. The floor area of the second story of an ADU or JADU shall not exceed the floor area of the first story. When determining the floor area of the first story for purposes of this paragraph, if an ADU or JADU is established or constructed by converting floor area an existing or proposed single-unit dwelling, or an existing accessory structure, the floor area of the first story shall include the floor area of the existing or proposed structure as well as the floor area of the ADU or JADU.

I. **Height.** An attached ADU or JADU shall comply with the height limitations for the primary dwelling unit to which it is attached. A detached ADU shall not exceed two stories or 24 feet in height.

J. **Location on Parcel.** Newly-constructed ADUs shall be located on a parcel as set forth in this subsection, subject to all applicable side and rear setback requirements set forth in subsection K below.

1. A detached ADU located on a parcel with a single-unit dwelling shall be located on the rear half of a parcel.

2. On a reverse corner parcel, an ADU or JADU shall not be located nearer to the street side parcel line of such corner parcel than one half of the front setback depth required on the key parcel, nor be located nearer than 4 feet to the side parcel line of any key parcel.

3. On a through parcel, an ADU or JADU shall not project into any front setback except as provided under subsection (K) below. Pursuant to SMMC 9.04.110(B), the front setback borders the street primarily used as frontage by the majority of neighboring parcels.

K. **Setbacks.** Side and rear setbacks of four (4) feet are required for an ADU or JADU, except that:

1. An ADU or JADU constructed or established pursuant to paragraph (G)(1)(a) or (G)(1)(b) above shall be subject to side and rear setbacks only as required for fire and safety.

2. No side or rear setback shall be required for an ADU or JADU constructed or established pursuant to paragraph (G)(1)(c) above.

3. An ADU or JADU shall not be permitted within the front setback, except that an ADU or JADU may expand the footprint of an existing single-unit dwelling up to 150 square feet only to accommodate ingress and egress as set forth in subsections (G)(1)(a), (G)(1)(b), and (G)(1)(c) above.

L. Design Standards. The exterior design of an ADU or JADU, including building forms, materials, colors, exterior finishes, and landscaping, shall be compatible with the primary single-unit dwelling or multiple-unit dwelling on the parcel.

1. An ADU shall be clearly subordinate to the main dwelling unit(s) on the parcel in terms of size, location, and appearance.

2. The entrance to an ADU shall not be on the front or street side setback.

3. First-story roof decks, landings, upper level walkways, and balconies shall not exceed an aggregate 35 square feet in area and shall not be located on the side elevation closest to a side parcel line or on the rear elevation; and shall have the same minimum side setback requirement as the principal building(s) on the parcel, but in no case less than 5 feet; and shall be set back a minimum 5 feet from the rear parcel line. Roof decks above the second-story are prohibited.

4. Within the R1 District, an attached ADU or JADU located entirely or partially on the second story of a single-unit dwelling shall comply with all applicable setback requirements set forth in 9.07.030.

M. Application of Generally Applicable Municipal Code Provisions. Except as set forth in this Section, an ADU or JADU shall conform to the height, setbacks, parcel coverage, and other land use regulations and development standards of the district in which it is located and all other applicable provisions of this Municipal Code, including but not limited to the provisions of Article VIII, Building Regulations, and the provisions of Chapter 9.56, Landmarks and Historic Districts.

N. Exemption. Notwithstanding anything set forth herein, the development and design standards set forth in this Section shall not preclude the establishment of a detached or attached ADU with a floor area of up to 800 square feet, side and rear setbacks of at least four (4) feet, and a height of no more than 16 feet.

O. Parking.

1. **Required Parking.** One on-site parking space, which may be unenclosed, shall be provided for an ADU. This space shall comply with all development standards set forth in Chapter 9.28, Parking, Loading, and Circulation, and the requirements for the district. A tandem parking space may also be used to meet the parking requirement for the accessory dwelling unit and may be provided on an existing driveway. Parking shall not be required for a JADU.

2. **Exemptions.** Notwithstanding any other parking required by this Section or Chapter 9.28 of this Article, no parking space shall be required for an ADU in any of the following circumstances:

a. The ADU is located within one-half mile walking distance of public transit, as defined by Government Code Section 65852.2(j)(10);

b. The ADU is an individually designated historic resource or is located within an architecturally and historically significant historic district;

c. The ADU is part of the existing or a proposed primary residence or an existing accessory structure;

d. An on-street parking permit is required but not offered to the occupant of the ADU; or

e. A car share vehicle is located within one block of the ADU.

3. **No Replacement.** When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, the eliminated off-street parking spaces are not required to be replaced.

P. Owner Occupancy Requirement.

1. An ADU that received its building permit before January 1, 2020, is subject to the owner-occupancy requirement that was in place when the ADU was permitted.

2. An ADU that receives its building permit after January 1, 2020, but before January 1, 2025, is not subject to any owner-occupancy requirement.

3. An ADU that receives its building permit on or after January 1, 2025, is subject to an owner-occupancy requirement. A natural person with legal or equitable title to the property that includes the ADU must reside on the property as the person's legal domicile and permanent residence.

4. A JADU is subject to an owner-occupancy requirement, except that a JADU that is owned by a governmental agency, land trust, or housing organization is not subject to this requirement. With respect to a JADU that is subject to an owner-occupancy requirement, a natural person with legal or equitable title to the property that includes the JADU must reside on the property as the person's legal domicile and permanent residence.

Q. Lease Terms. An ADU or JADU shall be subject to any restrictions or requirements for lease terms that apply to all residential dwelling units in the City. In addition, an ADU or JADU shall not be used for rentals of terms of 30 days or less.

R. Limitations on Separate Sale. No ADU or JADU may be sold or otherwise conveyed separately from the parcel and the primary dwelling (in the case of a single-unit dwelling) or from the parcel and all of the dwellings (in the case of a multiple-unit dwelling). Prior to issuance of a building permit for an ADU or JADU, a deed restriction must be recorded against the title of the property in the County Recorder's office and a copy filed with the Director. The deed restriction shall run with the land and bind all future owners. The form of the deed restriction shall be provided by the Director and shall provide that:

1. The ADU or JADU may not be sold separately from the primary dwelling associated with the ADU or JADU.

2. The ADU or JADU is restricted to the approved size and to other attributes allowed by this section.

3. The deed restriction runs with the land and may be enforced against future property owners.

4. The deed restriction may be removed if the owner eliminates the ADU or JADU, as evidenced by, for example, removal of the kitchen facilities. To remove the deed restriction, an owner may make a written request of the Director, providing evidence that the ADU or JADU has in fact been eliminated. Any building permits required in the removal must be approved by the Director's determination. The Director may then determine whether the evidence supports the claim that the ADU or JADU has been eliminated. Appeal may be taken from the Director's determination consistent with other provisions of this Code. If the ADU or JADU is not entirely physically removed but is only eliminated by virtue of having a necessary component of an ADU or JADU removed, the remaining structure and improvements must otherwise comply with applicable provisions of this Code.

5. The deed restriction is enforceable by the City. Failure of the property owner to comply with the deed restriction may result in legal action against the property owner, and the City is authorized to obtain any remedy available to it at law or equity, including, but not limited to, obtaining an injunction enjoining the use of the ADU or JADU in violation of the recorded restrictions or abatement of the illegal unit.

~~Notwithstanding the accessory structure standards of Section 9.21.020, accessory dwelling units shall be developed, located, and operated in accordance with the following standards:~~

~~A. **Purpose.** The purpose of this Section is to:~~

~~1. Allow accessory dwelling units as an accessory use to single-unit dwellings, consistent with California Government Code Section 65852.2, and provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located;~~

~~2. Establish that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot upon which it is located;~~

~~3. Allow for an increase in the supply of affordable housing in the City; and~~

~~4. Maintain the single-unit character of neighborhoods in the City.~~

~~B.— **Permit Requirements—Zoning Conformance Review.** An accessory dwelling unit that conforms to all standards of this Section not to exceed 650 square feet for parcels up to and including 6,000 square feet in area or not to exceed 800 square feet for parcels greater than 6,000 square feet in area is permitted by right. A Zoning Conformance Review shall be conducted to verify compliance with all applicable standards.~~

~~C.— **Location.** An accessory dwelling unit may be established on any legal parcel that contains 4,000 square feet or more in any district where a primary single-unit dwelling has been previously established or is proposed to be established in conjunction with construction of the accessory dwelling unit. Only 1 accessory dwelling unit is permitted per parcel.~~

~~D.— **Type of Unit and Relation to Main Dwelling.** The accessory dwelling unit shall provide separate, independent living quarters for 1 household. The accessory dwelling unit may be attached, detached, or located within the living area of the primary single-unit dwelling on the parcel, subject to the standards of this Section. A detached accessory dwelling unit shall be considered part of the primary single-unit dwelling if the accessory dwelling unit is located less than 6 feet from the primary single-unit dwelling or if connected to it by fully enclosed space.~~

~~E.— **Conversion or Demolition of Existing Structures.**~~

~~1.— **Garage Conversions.** Conversion of all or a portion of a garage to an accessory dwelling unit is permitted, provided that alternate parking for the primary dwelling is provided that meets the requirements of Chapter 9.28, Parking, Loading, and Circulation, and the district within which the parcel is located. Notwithstanding Chapter 9.28, such alternate parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of 5 feet from the side and rear property lines shall be required for an accessory dwelling unit that is constructed above a garage.~~

~~2.— **Demolition of Existing Structure.** When an existing garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, alternate parking for the primary dwelling shall be provided in a form that meets the requirements of Chapter 9.28, Parking, Loading, and Circulation and the district within which the parcel is located. Notwithstanding Chapter 9.28, such alternate parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.~~

~~3.— **Conversion of Existing Floor Area of the Main Dwelling.** The creation of an accessory dwelling unit through conversion of part of the existing floor area~~

of the primary single-unit dwelling shall be allowed, provided it has independent exterior access from the existing primary single-unit dwelling and does not result in the floor area of the primary dwelling being less than 150% of the floor area of the accessory dwelling unit, or in violation of the standards of the California Building Code.

~~4.— **Conversion of an Existing House to an Accessory Dwelling Unit.** In cases in which an existing single-unit dwelling has an area up to 650 square feet for parcels up to and including 6,000 square feet in area or up to 800 square feet for parcels greater than 6,000 square feet in area, the Review Authority may approve the construction of one additional residence that is intended to be the primary residence (a single-unit dwelling) on the property. The existing residence, which is intended to become the lawful accessory dwelling unit, must comply with all the requirements of this Section. The primary residence shall be constructed in accordance with the provisions of the applicable District standards and other requirements of this Article.~~

~~5.— **Conversion of an Existing Accessory Building to an Accessory Dwelling Unit.** Notwithstanding subsection F, the conversion of an existing accessory building up to 650 square feet for parcels up to and including 6,000 square feet in area or up to 800 square feet for parcels greater than 6,000 square feet in area, including, but not limited to, a studio, pool house, or other similar structure to an accessory dwelling unit shall be allowed if the unit is contained within the existing space of the accessory building, has independent exterior access from the existing primary single-unit dwelling, and the side and rear setbacks of the accessory dwelling unit are sufficient for fire safety.~~

~~F.— **Development Standards.** An accessory dwelling unit shall conform to the height, setbacks, parcel coverage, and other zoning requirements of the district in which it is located, other requirements of this Article, and other applicable City codes, except as provided in this Section:~~

~~1.— **Attached Accessory Dwelling Units.** An accessory dwelling unit that is attached to the primary dwelling shall comply with all the property development standards for the primary dwelling.~~

~~2.— **Detached Accessory Dwelling Units Up to 14 Feet in Height.** A detached accessory dwelling unit located within a new accessory structure up to 14 feet in height or within additions to existing accessory structures up to 14 feet in height shall comply with the following requirements:~~

~~a.— **Location.**~~

~~i.— An accessory dwelling unit shall be located on the rear half of the parcel and shall not extend into the required minimum side yard setback except as authorized pursuant to subsection E above.~~

ii.—An accessory dwelling unit may be located in the rear setback but shall be located at least 5 feet from the rear parcel line.

iii.—On a reverse corner parcel, an accessory dwelling unit shall not be located nearer to the street side parcel line of such corner parcel than $\frac{1}{2}$ of the front setback depth required on the key parcel, nor be located nearer than 5 feet to the side parcel line of any key parcel.

iv.—Any accessory dwelling unit on a through parcel shall not project into any front setback and shall not be located in any required side setback.

b.—*Maximum Floor Area.* The total floor area of an accessory dwelling unit up to 14 feet in height shall not exceed 650 square feet for parcels up to and including 6,000 square feet in area or shall not exceed 800 square feet for parcels greater than 6,000 square feet in area.

c.—*Maximum Building Height.* The accessory dwelling unit shall not exceed one story or 14 feet in height.

3.—***Detached Accessory Dwelling Units Over One Story or 14 Feet in Height.*** A detached accessory dwelling unit located within a new accessory structure over one story or 14 feet in height or within additions to existing accessory structures over one story or 14 feet in height shall comply with the following requirements:

a.—*Location.*

i.—An accessory dwelling unit shall be located on the rear half of the parcel and shall not extend into the required minimum side yard setback except as authorized pursuant to subsection E above.

ii.—An accessory dwelling unit may be located in the rear setback but shall be located at least 5 feet from the rear parcel line. The second story portion of an accessory dwelling unit may extend into the required rear setback but shall be no closer than 15 feet from the centerline of the alley or 15 feet from the rear property line where no alley exists. For second story portions of an accessory dwelling unit constructed above an existing garage, a setback of 5 feet from the side and rear parcel lines shall be required.

iii.—An accessory dwelling unit shall have the same minimum side setback requirement as the principal building on the parcel, but in no case less than 5 feet.

iv.—On a reverse corner parcel, an accessory dwelling unit shall not be located nearer to the street side parcel line of such corner parcel

~~than ½ of the front setback depth required on the key parcel, nor be located nearer than 5 feet to the side parcel line of any key parcel.~~

~~v. Any accessory dwelling unit on a through parcel shall not project into any front setback and shall not be located in any required side setback.~~

~~b. *Maximum Floor Area.* The total floor area of an accessory dwelling unit that exceeds one story or 14 feet in height shall not exceed 650 square feet for parcels up to and including 6,000 square feet in area or shall not exceed 800 square feet for parcels greater than 6,000 square feet in area.~~

~~i. The second story of an accessory dwelling unit shall not exceed the floor area of the first story.~~

~~c. *Maximum Building Height.* The accessory dwelling unit shall not exceed two stories or 24 feet in height.~~

~~d. *Exterior Features.* First-story roof decks, landings, upper level walkways, and balconies shall not exceed an aggregate 35 square feet in area and shall not be located on the side elevation closest to a side parcel line or on the rear elevation; and shall have the same minimum side setback requirement as the principal building on the parcel, but in no case less than 5 feet; and shall be set back a minimum 5 feet from the rear parcel line. Roof decks above the second story are prohibited.~~

~~G. **Design Standards.** The exterior design of the accessory dwelling unit, including building forms, materials, colors, exterior finishes, and landscaping, shall be compatible with the primary single-unit dwelling.~~

~~1. The accessory dwelling unit shall be clearly subordinate to the main dwelling unit on the parcel in terms of size, location, and appearance.~~

~~2. The entrance to the accessory dwelling unit shall not be on the front or street side setback unless it is a shared entrance with the primary unit.~~

~~H. **Parking.**~~

~~1. **Required Parking.** One on-site parking space, which may be unenclosed, shall be provided for the accessory dwelling unit. This space shall comply with all development standards set forth in Chapter [9.28](#), Parking, Loading, and Circulation, and the requirements for the district. A tandem parking space may also be used to meet the parking requirement for the accessory dwelling unit and may be provided on an existing driveway. Required parking for the primary single-unit dwelling may not be removed for the creation of an accessory dwelling unit or allocated to meet the parking requirement for the accessory dwelling unit unless replacement parking is provided in accord with this Article.~~

2. ~~**Exemptions.** Notwithstanding any other parking required by this Section or Chapter 9.28 of this Article, no parking spaces shall be required for an accessory dwelling unit in any of the following instances:~~

~~a. The accessory dwelling unit is located within one-half mile of public transit;~~

~~b. The accessory dwelling unit is an individually designated historic resource or is located within an architecturally and historically significant historic district;~~

~~c. The accessory dwelling unit is part of the existing primary residence or an existing accessory structure;~~

~~d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or~~

~~e. When there is a car share vehicle located within one block of the accessory dwelling unit.~~

~~l. **Owner Occupancy, Rental, and Sale Limitations.** Either the primary single-unit dwelling or the accessory dwelling unit shall be owner-occupied. Either unit may be rented, but both may not be rented at the same time. An accessory dwelling unit shall not be offered for sale separately from the primary dwelling unit. The primary single-unit dwelling or the accessory dwelling unit shall only be offered for residential occupancy for more than 30 days.~~

#23 Modify the following language in SMMC Section 9.51.020:

9.51.020 Residential Use Classifications

A. Residential Use Classifications

1. Residential Use Types.

~~b. *Accessory Dwelling Unit.* An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and that is located on a parcel with a proposed or existing primary single-unit or multiple-unit dwelling. See Division 3, Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units, for further details. A dwelling unit providing complete independent living facilities for one or more persons that is located on a parcel with another primary, single-unit dwelling as defined by State law. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-unit dwelling's location. A second unit may be within the same structure as the~~

~~primary unit, in an attached structure, or in a separate structure on the same parcel. This use is distinguished from a duplex. See Division 3, Section 9.31.300, Accessory Dwelling Units, for further details.~~

~~c. *Duplex.* A single building that contains 2 dwelling units or 2 single unit dwellings on a single parcel. This use is distinguished from an Accessory Dwelling Units and junior accessory dwelling units, which are ~~is an~~ accessory residential units as defined by State law and Division 3, Section 9.31.025, Accessory Dwelling Units and Junior Accessory Dwelling Units ~~the ordinance codified in this chapter.~~~~

~~f. *Junior Accessory Dwelling Unit.* A dwelling unit that is no more than 500 square feet in size and is contained entirely within an existing or proposed single-unit dwelling. See Division 3, Section 9.31.024, Accessory Dwelling Units and Junior Accessory Dwelling Units, for further details.~~

#24 Modify the following language in SMMC Section 9.52.010:

9.52.010 List of Terms

Accessory Dwelling Unit

Junior Accessory Dwelling Unit

#25 Modify the following language in SMMC Section 9.52.020:

9.52.020 Definitions

9.52.20.0095. Accessory Dwelling Unit. An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and that is located on a parcel with a proposed or existing primary single-unit or multi-unit dwelling.

9.52.20.1155. Junior Accessory Dwelling Unit. A dwelling unit that is no more than 500 square feet in size and is contained entirely within an existing or proposed single-unit dwelling.

Exhibit A-3
Proposed changes to regulations for Density Bonuses and Affordable Housing
Incentives

[Behind this Page]

#1 Modify the following language in SMMC Section 9.22.010:

9.22.010 Purpose

The purpose of this Chapter is intended to promote the production of deed-restricted affordable housing, to provide incentives for the production of such housing, to implement goals, objectives, policies, and programs of the City's Land Use and Circulation Element ("LUCE") and Housing Element related to affordable housing production, and to establish procedures for implementing State Density Bonus the requirements of the State Density Bonus Law, as set forth in California Government Code Chapter 4.3, Sections 65915-65918, (the "State Density Bonus Law").

#2 Add SMMC Section 9.22.020:

9.22.020 Relation to Affordable Housing Production Program

Nothing in this Chapter shall be interpreted to modify or reduce the requirements of the City's Affordable Housing Production Program, Chapter 9.64, including but not limited to, satisfaction of the affordable housing obligation set forth in Section 9.64.040. Affordable housing units produced pursuant to the Affordable Housing Production Program that meet the requirements of this Chapter shall be counted towards eligibility for the density bonuses, incentives or concessions, and waivers or modifications of development standards set forth in this Chapter.

#3 Add SMMC Section 9.22.030:

9.22.030 Definitions

As used in this Chapter:

(A) "Affordable housing cost" means affordable housing cost as defined in Health and Safety Code Section 50052.5.

(B) "Affordable rent" means affordable rent as defined in Health and Safety Code 50053.

(C) "Childcare facility" means a child daycare facility other than a family day care, including, but not limited to, infant centers, preschools, extended daycare facilities and schoolage childcare centers.

(D) "Common interest development" means common interest development as defined in Civil Code Section 4100.

(E) "Concession or incentive" means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part

2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Government Code Section 65915(c).

(F) “Density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application for first planning entitlement or permit, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density.

(G) “Development standard” means a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ration, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution or regulation.

(H) “Housing development” means a development project for five or more residential units, including a mixed-use development. For purposes of this Chapter, “housing development” also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, that consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in Government Code Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units.

(I) “Lower income households” means lower income households as defined by Health and Safety Code Section 50079.5.

(J) “Major transit stop” shall mean a major transit stop as defined in Public Resources Code Section 21155(b).

(K) “Maximum allowable residential density” means the density allowed under the Zoning Ordinance Article IX of this Municipal Code (the “Zoning Ordinance”) and the Land Use and Circulation Element (LUCE), or, if a range of density is permitted, means

the maximum allowable density for the specific zoning district, as set forth in Division 2 of the Zoning Ordinance, and the LUCE applicable to the project. If the density allowed under the Zoning Ordinance is inconsistent with the density allowed under the LUCE, the density provisions of the LUCE shall prevail.

(L) “Moderate-income households” means moderate-income households as defined in Health and Safety Code Section 50053.

(M) “Persons and families of moderate income” means persons and families of moderate income as defined in Health and Safety Code Section 50093.

(N) “Very low income households” means very low income households as defined in Health and Safety Code Section 50105.

#4 Renumber SMMC Section 9.22.020 to 9.22.040 and modify as follows:

9.22.0420 Eligibility State Incentives in Residential Districts—Density Bonuses

A. Except as set forth in subsection 9.22.040(B) below, a housing development project in a residential district shall be eligible for a density bonus and additional incentives, concessions, waivers, and/or reductions of development standards and parking ratios as set forth in this Section.

1. The City will grant one density bonus, the amount of which shall be specified in Section 9.22.050, and, if requested by the applicant and consistent with the applicable requirements of this Chapter, incentives and concessions, as set forth in Section 9.22.060(A) and (B), waivers and reductions of development standards, as set forth in 9.22.070, and parking ratios, as described in 9.22.060(C), to the applicant of a housing development when the applicant seeks and agrees to construct a housing development project that will, excluding any units permitted by the density bonus awarded pursuant to this Chapter, contain at least the following:

a. Ten (10) percent of the total units of the housing development as restricted affordable units affordable to lower income households;

b. Five (5) percent of the total units of the housing development as restricted affordable units affordable to very low income households;

c. A senior citizen housing development as defined in Section 51.3 and 51.12 of the Civil Code or a qualifying mobile home park that limits residency based on age requirements for older persons pursuant to Section 798.76 or 799.5 of the Civil Code;

d. Ten (10) percent of the total units of a common interest development, as restricted affordable units affordable to persons and families of moderate income, provided that all units in the development are

offered to the public for purchase subject to the equity share and restrictions specified in Government Code Section 65915(c)(2);

e. Ten (10) percent of the total units of a housing development as restricted affordable units affordable at the same affordability level as very low income units for transitional foster youth, as defined by 66025.9 of the Education Code, disabled veterans, as defined by Section 18541 of the Government Code, or homeless persons, as defined in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.);

f. Twenty (20) percent of the total units for lower income students in a student housing development that meets the requirements of Government Code Section 65915(b)(1)(F); or

g. One hundred (100) percent of the total units, exclusive of manager's unit or units, for lower income households, except that up to 20 percent of the total units in the housing development may be for moderate-income households.

2. Land donations. An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(g).

3. Housing development with childcare facility. An applicant that proposes to construct a housing development that conforms to the requirements of subsection 1 above and that also includes a childcare facility that will be located on the premises of, as part of, or adjacent to the project shall be eligible for a density bonus in accordance with the terms and conditions of Government Code Section 65915(h).

B. Notwithstanding subsection 9.22.040(A) above, an applicant that submits an application for housing development, including a planning entitlement or permit, shall be ineligible for a density bonus or any other incentive or concession under this Chapter if the housing development is proposed on a property that includes a parcel or parcels on which rental dwelling units are, or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons or families of lower or very low income; rental units that are controlled rental units pursuant to City Charter Section 1800 et seq., subject to Civil Code 1947.12, or subject to any other form of State or local rent or price control; or units occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

1. The proposed housing development, inclusive of the units replaced pursuant to this Section, contains affordable units at the percentages set forth in Section 9.22.050(B).

2. Each unit in the proposed housing development, exclusive of manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

B. For the purposes of this Section, "replace" shall mean either of the following:

1. If any dwelling units described in this Section are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. If the income category of the persons in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. For unoccupied dwelling units described in subsection (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. If the income category of the persons in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with subsection 9.55.050(D) of this chapter. If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

2. If all dwelling units described in subsection (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income

renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with subsection (E) of this Section. If the proposed development is for-sale units, the units replaced shall be subject to Government Code Section 65915(c)(2).

3. Notwithstanding paragraphs (1) and (2), for any dwelling unit described in subsection (A) that is or was, within the five-year period preceding the application, a controlled rental unit pursuant to City Charter Section 1800 et seq., a rental unit subject to Civil Code 1947.12, or a rental unit subject to any other form of State or local rent or price control, and that is or was occupied by persons or families above lower income the City may require that replacement units either:

(a) Be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units shall be replaced subject to Government Code Section 65915(c)(2).

(b) Be replaced in compliance with City Charter Article XIII, the City's Rent Control Law, provided that each unit described in this subsection (3) is replaced. Unless otherwise required by the Rent Control Law, these units shall not be subject to a recorded affordability restriction.

4. For purposes of this Section, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

C. Notwithstanding anything set forth in Section 9.22.040(A), a housing development project in any zoning district that will contain one hundred (100) percent of the total units, exclusive of manager's unit or units, for lower income households, except that up to 20 percent of the total units in the housing development may be for moderate-income households, shall be eligible for any density bonus, incentive, concession, waiver or modification to which a housing development project described in Section 9.22.040(A)(1)(g) is entitled.

~~A. This Section describes the minimum density bonuses which shall be provided, at the request of an applicant when that applicant provides affordable units, pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, in addition to the affordable units, if any, required by Santa Monica Municipal Code Chapter 9.64, City's Affordable Housing Production Program. Notwithstanding any provision of this Section to the contrary, development projects must satisfy all applicable requirements of Chapter 9.64, City's Affordable Housing Production Program, including,~~

~~but not limited to, Sections 9.64.050, 9.64.100, 9.64.110 and 9.64.130. However, development projects of 2 or more residential units that provide on-site affordable units pursuant to Section 9.64.050, Tier 2 development projects that provide on-site affordable housing units pursuant to Section 9.23.030(A), and 100% Affordable Housing Projects shall be entitled to the additional density bonuses and the incentives provided by Sections 9.22.030 and 9.22.040, and to the waiver/modification of development standards provided by Section 9.22.050.~~

~~B. The City shall grant a density bonus to a developer of a housing development who seeks a density bonus under the State Density Bonus law and agrees to construct at least one of the following in accordance with the requirements of this Section and Government Code Section 65915:~~

~~1. 10 percent of the total units of the housing development as restricted affordable units affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code; or~~

~~2. 5 percent of the total units of the housing development as restricted affordable units affordable to very low income households, as defined in Section 50105 of the Health and Safety Code; or~~

~~3. A senior citizen housing development as defined in Section 51.3 of the Civil Code; or~~

~~4. A qualifying mobile home park that limits residency based on age requirements for older persons pursuant to Section 798.76 or 799.5 of the Civil Code; or~~

~~5. 10 percent of the total units of a common interest development as restricted affordable units affordable to moderate income households, provided that all units in the development are offered to the public for purchase subject to the equity sharing and restrictions specified in Government Code Section 65915(c)(2).~~

~~C. This subsection establishes the minimum density bonuses that shall be awarded to a housing development in a Residential District under the State Density Bonus Law. In determining the number of density bonus units to be granted pursuant to this subsection, the maximum residential density for the site shall be multiplied by 0.20 for Subdivision (B)(1), (B)(2), (B)(3), and (B)(4) and by 0.05 for Subdivision (B)(5), unless a lesser number is selected by the developer. The number of density bonus units may also be increased in accordance with the Density Bonus Calculation Table and Density Bonus Summary Table located in Section 9.22.030. However, except as provided in Section 9.22.040.B.8, in no event shall the total density bonus for affordable housing under local provisions and under state density bonus provisions exceed 35 percent.~~

~~1. In calculating the minimum density bonus established by this Section or the additional density bonus established by Section 9.22.030, the density bonus units shall not be included when determining the number of restricted affordable units required to qualify for a density bonus and any calculations resulting in a fractional number shall be rounded upwards to the next whole number. Each housing development is entitled to only~~

~~one density bonus, which may be selected based on the percentage of either very low restricted affordable units, lower income restricted affordable units or moderate income restricted affordable units, or the development's status as a senior citizen housing development or qualifying mobile home park. Density bonuses from more than one category may not be combined.~~

~~2.— A developer may request a lesser density bonus than that which is available for a housing development under this Section and Section 9.22.030; however, the City shall not be required to similarly reduce the number of units required to be dedicated pursuant to this Section and Government Code Section 65915(b).~~

~~D.— Certain other types of development activities are specifically eligible for a density bonus:~~

~~1.— A residential project may be eligible for a density bonus in return for land donation pursuant to the requirements set forth in Government Code Section 65915(g).~~

~~2.— A residential project that contains a child care facility as defined by Government Code Section 65915(h) may be eligible for an additional density bonus or incentive pursuant to the requirements set forth in that section.~~

~~E.— An applicant shall agree to continued affordability of restricted affordable units in accordance with Section 9.64.130 and the Administrative Guidelines adopted thereto.~~

~~F.— An applicant for any proposed housing development submitted after January 1, 2015 shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:~~

~~1.— The proposed housing development, inclusive of the units replaced pursuant to this subsection (F), contains affordable units at the percentages set forth in this Section and Section 9.22.030.~~

~~2.— Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.~~

~~3.— For the purposes of this subsection (F), "replace" shall mean either of the following:~~

~~a.— If any dwelling units described in this subsection (F) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or~~

~~affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in this subsection (F) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with subsection (E) of this Section.~~

~~b. — If all dwelling units described in this subsection (F) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. The replacement units shall be subject to a recorded affordability restriction for at least 55 years in accordance with subsection (E) of this Section.~~

#4 Renumber SMMC Section 9.22.030 to 9.22.050 and modify as follows:

9.22.0530 Additional-Density Bonus-Increase in Residential Districts

A. An eligible applicant under Section 9.22.040 may seek a density bonus in the amounts set forth in this Section and in accordance with the procedures set forth in Section 9.22.080. Applicants may request a lesser percentage of density increase than that which is available for a housing development under this Section, including, but not limited to, no increase in density; however, the City shall not be required to similarly reduce the number of units required to be dedicated pursuant to this Section and Government Code Section 65915(b).

B. Determining Density Bonus. The number of density bonus units to be granted shall be determined as follows:

1. For housing developments that meet the criteria of Subsection 9.22.040(A)(1)(a), the density bonus shall be calculated as follows:

<u>Percentage Low-Income Units</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>20</u>
<u>11</u>	<u>21.5</u>
<u>12</u>	<u>23</u>
<u>13</u>	<u>24.5</u>
<u>14</u>	<u>26</u>
<u>15</u>	<u>27.5</u>
<u>17</u>	<u>30.5</u>
<u>18</u>	<u>32</u>
<u>19</u>	<u>33.5</u>
<u>20</u>	<u>35</u>

2. For housing developments that meet the criteria of Subsection 9.22.040(A)(1)(b), the density bonus shall be calculated as follows:

<u>Percentage Very Low Income Units</u>	<u>Percentage Density Bonus</u>
<u>5</u>	<u>20</u>
<u>6</u>	<u>22.5</u>
<u>7</u>	<u>25</u>
<u>8</u>	<u>27.5</u>
<u>9</u>	<u>30</u>
<u>10</u>	<u>32.5</u>
<u>11</u>	<u>35</u>

3. _____

a. _____ For housing developments that meet the criteria of Section 9.22.040(A)(1)(c), the density bonus shall be 20 percent of the number of senior housing units.

b. _____ For housing developments that meet the criteria of Section 9.22.040(A)(1)(e), the density bonus shall be 20 percent of the number of the type of units giving rise to a density bonus under that paragraph.

c. _____ For housing developments that meet the criteria of Section 9.22.040(A)(1)(f), the density bonus shall be 35 percent of the student housing units.

d. _____ For housing developments that meet the criteria of Section 9.22.040(A)(1)(g), the following shall apply:

_____ (i) Except as otherwise provided in clause (ii), the density bonus shall be 80% of the number of units for lower income households.

_____ (ii) If the housing development is located within one-half mile of a major transit stop, there shall be no maximum control on density.

4. _____ For housing developments that meet the criteria of Section 9.22.(A)(1)(d), the density bonus shall be calculated as follows:

<u>Percentage Moderate-Income Units</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>5</u>
<u>11</u>	<u>6</u>
<u>12</u>	<u>7</u>
<u>13</u>	<u>8</u>
<u>14</u>	<u>9</u>
<u>15</u>	<u>10</u>
<u>16</u>	<u>11</u>
<u>17</u>	<u>12</u>
<u>18</u>	<u>13</u>
<u>19</u>	<u>14</u>

<u>20</u>	<u>15</u>
<u>21</u>	<u>16</u>
<u>22</u>	<u>17</u>
<u>23</u>	<u>18</u>
<u>24</u>	<u>19</u>
<u>25</u>	<u>20</u>
<u>26</u>	<u>21</u>
<u>27</u>	<u>22</u>
<u>28</u>	<u>23</u>
<u>29</u>	<u>24</u>
<u>30</u>	<u>25</u>
<u>31</u>	<u>26</u>
<u>32</u>	<u>27</u>
<u>33</u>	<u>28</u>
<u>34</u>	<u>29</u>
<u>35</u>	<u>30</u>
<u>36</u>	<u>31</u>
<u>37</u>	<u>32</u>
<u>38</u>	<u>33</u>
<u>39</u>	<u>34</u>
<u>40</u>	<u>35</u>

5. An applicant for a tentative subdivision map, parcel map, or other residential development approval that donates land to the City in accordance with Government Code Section 65915(g) shall be entitled to a density bonus as provided by Government Code Section 65915(g).

C. Calculating Density Bonus.

1. For purposes of calculating the amount of the density bonus pursuant to subsection (B) above, a housing development is entitled to only one density

bonus and an applicant who requests a density bonus must elect whether the bonus shall be awarded on the basis of Section 9.22.040(A)(1)(a), (b), (c), (d), (e), (f), or (g). Density bonuses from more than one category may not be combined.

2. All density calculations resulting in fractional units will be rounded up to the next whole number.

3. For purposes of subsection (B) above, “total units,” “total dwelling units,” or “total rental beds” does not include units added by a density bonus pursuant to this Section or any provision of this Municipal Code granting a greater density bonus

D. Continued Affordability. Prior to issuance of a building permit, an applicant shall agree to continued affordability of restricted affordable units in accordance with Government Code Section 65915(c) and Section 9.64.130 of this Code and the Administrative Guidelines adopted thereto.

~~As set forth in the Density Bonus Calculation Table and Density Bonus Summary Table at the end of this Section, a housing development shall be granted an increase in the density bonus up to a maximum of 35 percent by increasing the number of restricted affordable units, as follows:~~

~~A. For each one percent increase in the percentage of restricted very low income affordable units, a housing development will receive an additional 2.5 percent density bonus up to a maximum of 35 percent.~~

~~B. For each one percent increase in the percentage of restricted lower income affordable units, a housing development will receive an additional 1.5 percent density bonus up to a maximum of 35 percent.~~

~~C. For each one percent increase in the percentage of moderate income affordable units, a for sale housing development will receive an additional one percent density bonus up to a maximum of 35 percent.~~

~~D. For each one percent increase above the minimum ten percent land donation described in Government Code Section 65915(g)(2), the density bonus shall be increased by one percent to a maximum of 35 percent. This increase shall be in addition to any increase in density mandated by subsection (C), up to a maximum combined by right density increase of 35 percent.~~

~~E. No additional density bonus increases shall be authorized for senior citizen housing developments or qualifying mobile home parks beyond the bonus authorized by Section 9.22.040(B).~~

~~F. Affordable housing units provided pursuant to Section 9.22.020 shall conform to the affordability requirements set forth in subsections (b) and (c) of Government Code Section 65915, as applicable.~~

TABLE 9.22.030.A: DENSITY BONUS SUMMARY

<i>Target Group</i>	<i>Minimum % Restricted Affordable Units</i>	<i>Bonus Granted</i>	<i>Additional Bonus For Each 1% Increase In Restricted Affordable Units</i>	<i>% Restricted Affordable Units Required For Maximum 35% Bonus</i>
Very Low Income	5%	20%	2.5%	11%
Lower Income	10%	20%	1.5%	20%
Moderate Income (Common Interest Development)	10%	5%	1%	40%
Senior Citizen Housing Development/Qualifying Mobile Home Park	100%	20%	—	—

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TABLE 9.22.030.B: DENSITY BONUS CALCULATIONS-VERY LOW INCOME UNITS

<i>Percentage of Very-Low Income Units</i>	<i>Density Bonus Percentage</i>
5%	20%
6%	22.5%
7%	25%
8%	27.5%
9%	30%
10%	32.5%
11%	35%

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TABLE 9.22.030.C: DENSITY BONUS CALCULATIONS-LOWER INCOME UNITS

<i>Percentage of Lower-Income Units</i>	<i>Density Bonus Percentage</i>
10%	20%
11%	21.5%
12%	23%
13%	24.5%
14%	26%
15%	27.5%

16%	29.0%
17%	30.5%
18%	32%
19%	33.5%
20%	35%

TABLE 9.22.030.D: DENSITY BONUS CALCULATIONS-MODERATE INCOME UNITS

<i>Percentage of Moderate-Income Units</i>	<i>Density Bonus Percentage</i>
10%	5%
11%	6%
12%	7%
13%	8%
14%	9%
15%	10%
16%	11%
17%	12%
18%	13%
19%	14%
20%	15%
21%	16%
22%	17%
23%	18%
24%	19%
25%	20%
26%	21%
27%	22%
28%	23%
29%	24%
30%	25%
31%	26%
32%	27%

33%	28%
34%	29%
35%	30%
36%	31%
37%	32%
38%	33%
39%	34%
40%	35%

#5 Renumber SMMC Section 9.22.040 to 9.22.060 and modify as follows:

9.22.0640 State-Incentives and Concessions for Affordable Housing in Residential Districts

This Section includes provisions for providing incentives pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

A. An eligible applicant under Section 9.22.040 may request the following numbers of incentives or concessions in accordance with the procedures set forth in Section 9.22.080 pursuant to this Section only when the residential project is eligible for, and the applicant requests, a density bonus pursuant to Section 9.64.050(l) or pursuant to Section 9.22.020:

1. One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

2. Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

3. Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

4. Four incentives or concessions for projects meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet.

B. A requested incentive or concession may include the following:

1. For Tier 1 housing developments in residential zones:

i. Up to a 15 percent deviation from one side setback requirement;

ii. Up to a 10 percent increase in first floor parcel coverage;

iii. Up to 15 percent deviation from rear setback requirements.

2. For Tier 2 housing developments in residential zones that meet the requirements of 9.23.030(A) of this Code: one or more of the Tier 2 incentives set forth in Table 9.08.030.

CA. **By Right Parking Incentives.** In addition to the above, an eligible applicant under Section 9.22.040 shall be entitled to the parking incentives set forth in Government Code Section 65915(p).

D. Nothing in this Section limits or requires the provision of direct financial incentives for a housing development, including the provision of publicly owned land by the City or the waiver of fees or dedication requirements.

~~1. As an alternative to Section 9.28.060, density bonus housing developments shall be granted the following maximum parking standards, inclusive of handicapped and guest parking, which shall apply to the entire development, not just the restricted affordable units, when requested by a developer, except as provided by paragraphs (2) and (3) of Government Code Section 65915(p), or any successor thereto:~~

~~a. Zero to one bedroom dwelling unit: one on-site parking space.~~

~~b. Two to 3 bedrooms dwelling unit: 2 on-site parking spaces.~~

~~c. Four or more bedrooms: 2 and one-half parking spaces.~~

~~2. If the total number of spaces required results in a fractional number, it shall be rounded up to the next whole number. For purposes of this Subsection, this parking may be provided through tandem parking or uncovered parking, but not through on-street parking.~~

~~**B. Additional Incentives or Concessions.** As set forth in the Incentives/Concessions Summary Table at the end of this Subsection, in addition to by right parking incentives identified in Subsection (A), density bonus housing developments shall be granted 1, 2, or 3 incentives or concessions as follows:~~

~~1. For housing developments with Very Low Income Restricted Units:~~

~~a. One incentive or concession if 5 percent of the units (not including the bonus units) are set aside for Very Low Income households;~~

~~b. Two incentives or concessions if 10 percent of the units (not including the bonus units) are set aside for Very Low Income households; or~~

~~c. Three incentives or concessions if 15 percent of the units (not including the bonus units) are set aside for Very Low Income households.~~

2. ~~For housing developments with Lower Income or Moderate Income Restricted Units:~~

a. ~~One incentive or concession if 10 percent of the units are set aside for Lower Income households or if 10 percent of the units are set aside for Moderate Income households in a common interest development;~~

b. ~~Two incentives or concessions if 20 percent of the units are set aside for Lower Income households or if 20 percent of the units are set aside for Moderate Income households in a common interest development; or~~

c. ~~Three incentives or concessions if 30 percent of the units are set aside for Lower Income households or if 30 percent of the units are set aside for Moderate Income households in a common interest development.~~

TABLE 9.22.040: INCENTIVES/CONCESSIONS SUMMARY			
<i>Target Group</i>	<i>Restricted Affordable Units</i>		
Very Low Income	5%	10%	15%
Lower Income	10%	20%	30%
Moderate Income (Common Interest Dev.)	10%	20%	30%
Maximum Incentive(s)/Concession(s)	1	2	3

3. ~~For purposes of Subsection (B) of this Section, an incentive means the following:~~

a. ~~A reduction of development standards or architectural design requirements which exceed the minimum applicable building standards approved by the State Building Standards Commission pursuant to Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, setback, coverage, and/or parking requirements which result in identifiable, financially sufficient and actual costs reductions, based upon appropriate financial analysis and documentation to the extent required by the City pursuant to Section 9.22.060;~~

b. ~~Allowing mixed use development in conjunction with the proposed residential development, if nonresidential land uses will reduce the cost of the residential project and the nonresidential land uses are compatible with the residential project and existing or planned surrounding development consistent with this Ordinance;~~

c. ~~Other regulatory incentives proposed by the applicant or the City which result in identifiable financially sufficient, and actual cost reductions, based upon appropriate financial analysis and documentation to the extent required by the City pursuant to Section 9.22.060.~~

~~4. Housing developments that meet the requirements of Government Code Section 65915(b) and include a child care facility that will be located on the premises of, as part of, or adjacent to, the development, shall be granted an additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.~~

~~5. In submitting a proposal for the number of incentives or concessions authorized by this Section, a housing developer may request the specific incentives set forth in Subsection (B)(6) or (B)(7), as applicable, or may submit a proposal for other incentives or concessions. The process for reviewing this request is set forth in 9.22.060.~~

~~6. Tier 1 housing developments in residentially-zoned districts that meet the requirements of Subsection (B) may request one or more of the following incentives, as applicable:~~

~~a. Up to a 15 percent deviation from one side setback requirement;~~

~~b. Up to a 10 percent increase in first floor parcel coverage;~~

~~c. Up to 15 percent deviation from rear setback requirements.~~

~~7. Tier 2 housing developments in residentially-zoned districts that meet the requirements of 9.23.030(A) may request one or more of the Tier 2 incentives set forth in Table 9.08.030.~~

~~8. 100% Affordable Housing Projects in residentially-zoned districts may request one or more of the affordable housing project incentives set forth in Table 9.08.030. 100% Affordable Housing Projects shall also be entitled to a 15% City density bonus in addition to the State Density Bonus authorized by this Chapter.~~

#6 Renumber SMMC Section 9.22.050 to 9.22.070 and modify as follows:

9.22.050 Waiver/Modification of Development Standards in Residential Districts

~~This Section includes provisions for providing waivers or modifications pursuant to Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.~~

~~A. An eligible applicant under Section 9.22.040 Developers may in accordance with the procedures set forth in Section 9.22.080 seek a waiver or modification of any development standards that will have the effect of precluding the construction of a housing development at the densities or with the concessions or incentives permitted by this Section Chapter. The eligible applicant-developer shall show that any development standard requested to be waived or modified will have the effect of physically precluding the construction of the a housing development meeting the criteria of subsection (C) of 9.22.020 at the densities or with the concessions or incentives permitted by this Chapter.~~

~~For purposes of this Section, a Development Standard includes a site or construction condition including, but not limited to, a height limitation, a setback requirement, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.~~

B. Except as provided in subsection 9.22.070(C), a proposal for the waiver or reduction of development standards pursuant to this Section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 9.22.060.

C. A housing development that receives a waiver from any maximum controls on density pursuant to paragraph 9.22.050(3)(d)(ii) shall not be eligible for, and shall not receive, a waiver or reduction of development standards pursuant to this subdivision, other than as expressly granted under paragraph 9.22.050(3)(d)(ii).

#7 Renumber SMMC Section 9.22.060 to 9.22.080 and modify as follows:

9.22.0860 Procedures

The following procedures shall govern the processing of a request for a density bonus, incentive, concession, waiver, modification, or revised parking standard:

A. An application for a density bonus incentive, concession, waiver, modification, or revised parking standard pursuant to this Chapter shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications required for the housing development. The application shall be submitted on a form prescribed by the City and shall include at least the following information:

1. Site plan showing total number of units, number and location of affordable housing units, and number and location of proposed density bonus units;

2. Target income of affordable housing units and proposals for ensuring affordability;

3. Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. For all incentives and concessions that are not included within the menu of incentives/concessions set forth in subsections (B) and (C) of Section 9.22.060 ~~subsection (B)(6) through (8) of Section 9.22.040 or set forth in subsection (A) of Section 9.22.040~~, the application shall include a pro forma providing evidence that the requested incentives and concessions result in identifiable, financially sufficient, and actual cost reductions. The cost of reviewing any required pro forma or other financial data submitted as part of the application in support of a request for an incentive/concession or waiver/modification of developments standard, including, but not limited to, the cost to the City of hiring a consultant to review said

financial data, shall be borne by the developer. The pro forma shall include all of the following items:

- a. The actual cost reduction achieved through the incentive;
- b. Evidence that the cost reduction allows the applicant to provide affordable units or affordable sales prices; and
- c. Other information requested by the Director. The Director may require any pro forma include information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other information as is required to evaluate the pro forma.

4. For any requested waiver of a development standard, the applicant shall provide evidence that the development standard for which the waiver is requested will have the effect of physically precluding the construction of the residential project with the density bonus incentives requested;

5. If a density bonus or concession is requested for a land donation, the application shall show the location of the land to be dedicated, provide proof of site control, and provide evidence that all of the requirements and each of the findings included in Government Code Section 65915(g) can be made; and

6. If a density bonus or concession is requested for a childcare facility, the application shall show the location and square footage of the childcare facilities and provide evidence that all of the requirements and each of the findings included in Government Code Section 65915(h) can be made.

B. In accordance with State law, neither the granting of a concession, incentive, waiver, or modification nor the granting of a density bonus shall be interpreted, in and of itself, to require a General Plan amendment, Zoning Ordinance, Variance, or other discretionary approval.

C. For housing developments requesting an incentive or concession pursuant to Section 9.22.060 or a waiver or modification pursuant to Section 9.22.070 ~~of a development standard or an incentive/concession not included in subsection (B)(60 through (8) of Section 9.22.040~~, the following shall apply:

1. The Director shall grant the concession or incentive requested by the applicant unless the Director makes a written finding, based upon substantial evidence, of any of the following:

- a. The incentive or concession does not result in identifiable and actual cost reductions to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or for rents for the affordable units; or

b. The concession or incentive will have a specific adverse impact upon public health and safety, or on the physical environment or on any real property that is listed in the California Register of Historic Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-income and moderate income households; or

c. The concession or incentive would be contrary to State or Federal law.

2. The Director shall grant the modification or waiver if the development standard will have the effect of physically precluding the construction of a housing development at the densities permitted under Section 9.22.050, or with the concessions or incentives permitted under Section 9.22.060. Notwithstanding the foregoing, the Director shall not be required to grant a modification or waiver if:

a. The waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

b. The waiver or reduction would have an adverse impact on real property that is listed in the California Register of Historical Resources;

c. The waiver or reduction would be contrary to state or federal law.