



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: February 28, 2025

TO: Honorable Council President and Members of the City Council

FROM: Heidi Vonblum, City Planning Director

SUBJECT: Accessory Dwelling Unit (ADU) Home Density Bonus Program

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The purpose of this memorandum is to provide an update to the City Council on the City Planning Department's efforts related to the City's Accessory Dwelling Unit (ADU) Home Density Bonus Program (ADU Bonus Program). Based on ongoing public feedback, the City Planning Department's regular monitoring of the Land Development Code, as well as recent Council office input, this memorandum outlines an approach to include reforms to the ADU Bonus Program as part of the 2025 Land Development Code Update, with opportunities for ongoing community and Council engagement.

**Background**

State law includes various requirements that cities and counties must comply with regarding the permitting of ADU homes. State law generally requires that up to 3 ADU homes be permitted ministerially in single-family zones and potentially up to 8 ADU homes in multifamily zones. Government Code § 66323(a)(1), (a)(2)(B), (a)(4)(A)). State law also requires cities and counties as part of their state required General Plan Housing Element to develop a program that incentivizes and promotes the creation of ADU homes offered at affordable rent for very low-, low- or moderate-income households. Government Code § 65583(c)(7).

State law also applies additional requirements related to ADU homes. A summary of state law requirements related to ADU homes compared to City of San Diego regulations is provided as Attachment 1 to this memorandum for the Council's information.

**Existing ADU Bonus Program Requirements**

In 2020, the San Diego City Council adopted the "Housing Legislative Package," which included, among other things, the addition of San Diego Municipal Code section [141.0302\(c\)\(2\)\(H\)](#), which includes the ADU Bonus Program. The ADU Bonus Program generally allows additional ADU homes to be built in both single-family and multi-family zones in the Sustainable Development Area where, for every additional ADU home built, another one is built that is deed restricted for a period of 10 years (at very low- and low-

income levels) or 15 years (at moderate-income levels), subject to certain limitations discussed below.

#### *Pedestrian Path of Travel*

The ADU Bonus Program applies in the City's Sustainable Development Area, meaning that there must be a pedestrian path of travel from a major transit stop to the project site to qualify. See San Diego Municipal Code section 113.0103. This means that under *existing* regulations, properties that lack sidewalks between a major transit stop and a project site are not eligible for the ADU Bonus Program.

#### *Height and Floor Area Ratio*

Under the ADU Bonus Program, the total development on a project site with an ADU home development must still comply with the base zone height and floor area ratio requirements. For a typical 5,000 square foot lot zoned RS-1-7, this means the entire ADU development and primary home could not exceed 30 feet in height or the 3,000 square foot maximum allowed floor area due to the 30-foot height limit and 0.6 floor area ratio<sup>1</sup> limit for the RS-1-7 zone. San Diego Municipal Code § 131.0446(a).

#### *Development Impact Fees*

Under the City's current development regulations, the first two ADU homes on any lot are exempt from the payment of Development Impact Fees (DIF), and under state law, the City may not impose any DIF on any ADU homes that are less than 750 square feet.

#### **Existing ADU Bonus Program Data**

The 2024 Annual Report on Homes contains the most recently verifiable data on the ADU Bonus Program, which shows that the City has permitted 239 ADU homes, of which 109 homes have been deed restricted at the moderate-income level, 3 homes at the low-income level, and 3 homes at the very low-income level. These developments have been permitted across the City, with the greatest amounts permitted in the College Area, Clairemont, North Park, Uptown, Otay Mesa-Nestor, and Southeastern San Diego community planning areas. The City Planning Department anticipates these numbers to be higher for 2024 but is currently reviewing and verifying the 2024 permitting data. In the coming weeks, we will be able to complete our review of all relevant 2024 data and provide a more comprehensive review and analysis of the ADU Bonus Program based on that data, including information such as whether DIF was paid, the scale of the developments, and where the ADU homes are located.

#### **Recent Council Actions**

On January 29, 2025, the City Council heard [Item 331](#) for the removal of footnote 7 from Table 131-04D in the Land Development Code related to allowed regulations in the single-family RS-1-2 zone in the Encanto Neighborhoods and Southeastern San Diego community planning areas. Although that item did not involve any regulations related to ADU development, the City Council also voted to request that staff bring an item to the City Council to repeal the ADU Home Density Bonus Program within 60 days. A law firm subsequently notified the City that it alleged that the Council's motion violated the Brown Act. The item related to the removal of footnote 7 will be reheard by the City Council on March 4, 2025 including the rescission of the Council's January 29, 2025 actions.

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<sup>1</sup> Floor area ratio means the numerical value obtained by dividing the gross floor area of all buildings on a premises by the total area of the premises on which the buildings are located. San Diego Municipal Code § 113.0103.

Additionally, Council District 4 has placed an additional item on the March 4, 2025 Council agenda proposing to “request City Staff to return to City Council within 60 days with an action item to repeal the ADU Bonus Program from the San Diego Municipal Code, conforming the local ADU Bonus Program to state mandated ADU regulations for single-family zoned parcels.”

### **Housing Element Certification**

A wholesale repeal of the ADU Bonus Program would violate State housing laws in the absence of corresponding replacement regulations that incentivize and promote the creation of affordable ADU homes. A violation of State housing laws could result in the decertification of the City’s adopted Housing Element by the Department of Housing and Community Development. Without a certified Housing Element, the City would be ineligible for State housing and homelessness [funding](#) opportunities and would be unable to deny certain development projects. Specifically, without a compliant Housing Element, the City would be ineligible for Permanent Local Housing Allocation (PLHA), Affordable Housing Sustainable Communities (AHSC), SB1 Planning grants, CalHOME funding, Infill Infrastructure Grants (IIG), Local Housing Trust Fund (LHTF), and Regional Transportation Funding. Additionally, the City’s Prohousing Designation may be reconsidered by the state, which may carry funding eligibility consequences. Lastly, a Housing Element that is out of compliance may subject the city to Builder’s Remedy laws.

### **Current City Planning Department Efforts**

Prior to the January 29, 2025 Council hearing, based on our Department’s ongoing monitoring of the City’s Land Development Code, as well as feedback we have heard from the Council and members of the public, we had already identified potential reforms to the ADU Bonus Program, and had already intended to address these through the 2025 Land Development Code Update. We recently heard additional feedback from the Council offices, which have been very helpful in further developing a concept for reforms, which will be brought forward as part of the 2025 Land Development Code Update process. We welcome your ongoing feedback on these potential reforms, as well as on ongoing discussion on how we can best achieve other needed reforms, while still ensuring that the parts of the program that have been successful remain available and successful. The purpose of these reforms is to ensure that the ADU Bonus Program continues to incentivize affordable ADU homes while ensuring that it at the same time results in development that is compatible with the surrounding community and addresses project impacts. The following reforms are currently proposed:

- **Opt-in Fee:** Work with the City Attorney’s Office to identify options to impose an opt-in fee for ADU homes under 750 square feet for projects that choose to enter the ADU Bonus Program in lieu of DIF payments which are limited by state law. This would allow the City to collect an opt-in fee from the ADU bonus homes that are less than 750 square feet to fund needed infrastructure. This would also help to support the production of homes for families by removing an incentive to only build smaller units.

- **Development Scale:** Continue to limit the applicability of the ADU Bonus Program using the base zone height and floor area ratio requirements, and require the floor area ratio to be calculated based only on the land that is allowed to be developed outside of environmentally sensitive lands or other preserved open space and canyon lands. Additionally, reduce the ADU Bonus Program applicability in very low-density residential zones, such as RS-1-1, RS-1-2, RS-1-3, RS-1-8, RS-1-9 and RS-1-10 since such zones have not been comprehensively planned for increases in density and have typically been zoned for low density due to the constrained developability of the land in those instances.
- **Parking:** Apply multifamily parking requirements to ADU Bonus Program development outside of the Transit Priority Area. State law prevents the City from requiring parking inside the Transit Priority Area.
- **Compliance:** Increase the fines for violations of the deed restriction for affordable homes developed through the ADU Bonus Program. Currently, the San Diego Housing Commission can recover the amount charged above the affordable rent each month with 10 percent interest. This proposal would increase the penalty to a higher amount to further ensure that affordable homes built under the ADU Bonus Program are available for qualifying households.
- **Adequate Evacuation Routes:** Eliminate the ADU Bonus Program's applicability in High and Very High Fire Hazard Severity Zones unless adequate standards for fire prevention and fire rescue (ingress and egress) exist and unless the entirety of the evacuation route meets City streets standards and/or have sufficient emergency access.
- **Fire Code:** Apply fire code requirements for multi-family buildings to ADU Bonus Program developments. This would require fire sprinklers like multi-family buildings.
- **Setbacks:** Align all ADU setbacks to be consistent with fire code regulations related to brush management. This would provide greater clarity between the Land Development Code regulations and the Fire Code regulations regarding brush management and clear spaces.

### **Conclusion**

As part of the 2025 Land Development Code Update process, we plan to share information on our webpage, hold public workshops, receive input, and then bring the item forward for a recommendation from the Community Planners Committee and Planning Commission, prior to presenting the item to Land Use and Housing Committee, and then the City Council. We estimate that this process will allow us to begin the hearing process this Summer. This process also includes having the State Department of Housing and Community Development review the proposed changes to the ADU Bonus Program.

The City Planning Department remains committed to working with the Council to bring forward reforms to the ADU Bonus Program that address community concerns related to infrastructure, scale, emergency and fire safety, and other areas of concern identified by the Council. While the ADU Bonus Program has seen great success in increasing new home

opportunities, especially at the moderate-income level, it is always important to monitor the entirety of the implementation of a program to ensure that its outcomes best serve our City while still helping to meet our state mandated housing goals and affirm our commitment as a prohousing City.

We value the Council's feedback so we can work together to ensure continued opportunities for much needed affordable housing across our City, while also ensuring that the ADU Bonus Program results in development that is compatible with the surrounding community, ensures public safety and results in revenue to invest in necessary infrastructure in our communities. Along with this discussion, we look forward to ongoing discussions with the City Council on other ways to increase opportunities for much needed housing – particularly affordable housing in high resource areas.

As announced in the Mayor's State of the City address, the City Planning Department will be developing a new program to further the City's commitment to addressing the housing crisis and affirmatively furthering fair housing, specifically by proposing new Citywide zones that allow for more small-scale neighborhood home infill development in a manner that enhances the surrounding community.

If you have any questions, please let us know, and if you have any specific feedback, please continue to share that feedback as we bring the 2025 Land Development Code Update forward for Council consideration. As always, we welcome your ongoing feedback and input throughout the process.



Heidi Vonblum  
City Planning Director

#### Attachment 1: Summary of ADU Regulations

cc: Honorable Mayor Todd Gloria  
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**ATTACHMENT 1**  
**Summary of ADU Regulations**

## Summary of ADU Regulations

ADU Regulation	CA State Law	SD Municipal Code	City of San Diego ADU Home Density Bonus Regulations
<b>Number of ADUs Allowed Single Family Lots</b>	Local regulations must allow at least one ADU constructed from existing inhabitable space, one newly constructed detached ADU, and one JADU.	<u>More Restrictive than State Law</u> - Only Allow One ADU and One JADU *Updating ADU regulations to be consistent	<u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area. Development must be consistent with base zone height, FAR, and lot coverage. One bonus ADU is permitted outside a Sustainable Development Area
<b>Number of ADUs Allowed Multifamily Lots</b>	Local regulations must allow 8 detached ADUs on a lot with an existing or proposed multifamily homes and at least one conversion ADU with an existing multifamily dwelling unit up to 25 percent of the number of units in the existing multifamily dwelling unit.	<u>More Restrictive than State Law</u> - Allow Two ADUs. *Updating ADU regulations to be consistent	<u>Exceeds State Law</u> - Allows one additional ADU for every ADU set aside as affordable to moderate, very low, or low income households in Sustainable Development Area. Development must be consistent with base zone height, FAR, and lot coverage. One bonus ADU is permitted outside a Sustainable Development Area
<b>Height</b>	Local regulations may not impose a height limit that is less than: - 18 feet for a detached ADU - 25 feet for a attached ADU	<u>Exceeds State Law</u> - Height Limit of Base Zone (most single family zones set 30' height limit)	<u>Exceeds State Law</u> - Height Limit of Base Zone
<b>Setbacks</b>	<u>Front Setback:</u> A local agency may apply front yard setbacks for ADUs, but front yard setbacks cannot preclude an ADU of at least 800 square feet from being built on the property. <u>Side/Rear Setback:</u> A setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU.	<u>Consistent With State Law</u> - Front setbacks of base zone apply. 4 foot side/rear setback for multistory ADU abutting a Residential Use. <u>Exceeds State Law</u> - Zero side/rear setback for single story ADU. Zero side/rear setback for multistory ADU abutting a non-residential use *Updating regulations to ensure setbacks consistent with fire requirement setbacks	<u>Consistent With State Law</u> - Front setbacks of base zone apply. 4 foot side/rear setback for multistory ADU abutting a Residential Use. <u>Exceeds State Law</u> - Zero side/rear setback for single story ADU. Zero side/rear setback for multistory ADU abutting a non-residential use.
<b>Floor Area Ratio (FAR) Requirements</b>	Limits on lot coverage or any FAR requirements cannot preclude the creation of an ADU of at least 800 square feet that maintains four-foot rear and side setbacks. Local agencies may impose FAR requirements but they may not unreasonably restrict the creation of ADUs.	<u>Consistent with State Law</u>	<u>Consistent with State Law</u>
<b>Maximum ADU Size (Attached)</b>	A local jurisdiction may establish a maximum unit size requirement for attached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
<b>Maximum ADU Size (Detached)</b>	A local jurisdiction may establish a maximum unit size requirement for detached ADUs. Must be at least 850 square feet, or 1,000 square feet for attached ADUs with more than one bedroom.	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet	<u>Exceeds State Law</u> - Allow ADUs up to 1,200 square feet
<b>Minimum ADU Size (Attached and Detached)</b>	150 square feet	<u>Consistent with State Law</u>	<u>Consistent with State Law</u>
<b>Parking</b>	No parking required within a Transit Priority Area Local regulations may not exceed one parking space per ADU or per bedroom, whichever is less.	<u>Exceeds State Law</u> - No Parking Required for ADUs Outside of Beach Impact Area	<u>Exceeds State Law</u> - No Parking for ADUs Outside of Beach Impact Area
<b>Owner Occupancy</b>	JADU: Property owner must reside on the premises ADUs: No owner occupancy requirement	<u>Consistent with State Law</u>	<u>Consistent with State Law</u>
<b>ADU Leasing</b>	Local agencies may require that ADUs be used for rentals of terms longer than 30 days.	<u>Consistent with State Law</u>	<u>Consistent with State Law</u>
<b>ADU Bonus Program</b>	Cities are required to develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent for very low, low, or moderate-income households.	<u>Exceeds State Law</u> : A maximum of one additional accessible ADU permitted if the development includes at least two affordable ADUs to very low income, low income, or moderate income households, limited by FAR and height of the underlying zone.	<u>Exceeds State Law</u> : City's certified Housing Element includes identified "a program to incentivize construction of ADUs that are covenant-restricted for very low, low, and moderate income households." While amendments may be made to City's ADU Home Density Bonus Program, regulations must still remain in effect that incentivize affordable ADUs.
<b>Development Impact Fees</b>	Local agencies may not charge an impact fee for an ADU that is less than 750 sf	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.	<u>Exceeds State Law</u> : No DIF for first two ADUs regardless of size.