

**Title 18 ZONING<sup>1</sup>**

**Chapters:**

***DIVISION 1. GENERAL PROVISIONS***

***Chapter 18.10 UNDERSTANDING THE LAND USE CODE***

**18.10.010 Purpose.**

- A. Purposes of This Title.
  - 1. Promote and protect the public health, safety, welfare and general prosperity of the city;
  - 2. Implement the general plan;
  - 3. Encourage the most desirable and appropriate use of land for open space, residential, commercial, industrial, institutional, and other purposes, including the most desirable mix and intensity of uses and density of population throughout the city;
  - 4. Ensure the orderly and adequate provision of infrastructure, facilities, and services such as streets, sidewalks, water, sewer, schools, and other public improvements;
  - 5. Encourage the most appropriate use and occupancy of buildings;
  - 6. Promote good planning and design;
  - 7. Provide standards that include: the use and intensity of use of structures and land for residential, commercial, industrial, institutional, or other purposes; population density; the location, height, bulk and size of buildings and other structures; yards, courts, and other private and public open spaces; parking and loading; signs; the division of land; and grading.

(Ord. No. 2012-2372, Exh. B-1, 2-7-2012)

**18.10.020 Applicability.**

- A. Limitations on Land Use. Except as otherwise provided:
  - 1. No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designated or intended to be used for any purpose or in any manner other than those uses listed in this title as permitted in the zone in which such building, land, or premises is located.

<sup>1</sup>Editor's note(s)—Ord. No. 2012-2372, adopted Feb. 7, 2012, repealed Title 18Editor's note(s)— and enacted a new title as set out herein. The former Title 18Editor's note(s)— pertained to similar subject matter. For a complete derivation, see the Disposition of Ordinances.

- D. The regulations in this Division may be utilized to add GFA for residential development to an existing non-residential development through the conversion of existing non-residential space to permanent rental or for-sale dwelling units.
- E. The required number of affordable dwelling units shall be calculated in accordance with Section 18.50.070. To calculate the required number of affordable dwelling units, all density calculations resulting in fractional units shall be rounded up to the next whole number. Existing covenant-restricted affordable dwelling units shall not be counted towards the affordable housing requirement in this Division.
- F. The regulations in this Division shall not supersede the regulations of any other Municipal Code Section unless specified.

**18.50.040 Required replacement of existing affordable units.**

- A. An applicant is ineligible for any incentive under this Division if the premises on which the development is proposed contains, or during the seven years preceding the application, contained, rental dwelling units that have had the rent-restricted by law or covenant to persons and families of low income or very low income, or have been occupied by persons and families of low income or very low income unless the proposed development replaces the affordable dwelling units, and either:
  - 1. Provides affordable dwelling units at the percentages set forth in Section 18.48.020 (inclusive of the replacement dwelling units), or
  - 2. Provides all of the dwelling units in the development as affordable to low-income or very low-income households, excluding any manager’s unit(s).
- B. The number and type of required replacement affordable dwelling units shall be determined as follows:
  - 1. The development shall replace all existing and demolished affordable dwelling units on the premises. Affordable dwelling units are defined as:
    - a. Subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to very low income or low-income households during the five (5) year period preceding the development application.
    - b. Dwelling units that are or were occupied by very low income or low-income households during the five (5) year period preceding the development application.
  - 2. The affordable dwelling units shall be replaced as follows:
    - a. For a development containing any occupied affordable dwelling units, the development must:
      - a. Contain at least the same number of replacement affordable dwelling units, of equivalent size and bedrooms, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied affordable dwelling units.
      - b. For unoccupied affordable dwelling units in the development, the replacement affordable dwelling units shall be made affordable to and occupied by persons and families in the same or lower income category as the last household in occupancy.
      - c. If the income category of the last household is unknown, it is presumed that the affordable dwelling units were occupied by very low-income and low-income renter households in the same proportion of very low-income and low-income renter households to all renter households within the City of National City, as determined by the most recently available data from the United States Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy database, and replacement affordable dwelling units shall be provided in that same percentage.

- b. Prior to, or concurrent with, the sale of each affordable dwelling unit, the applicant shall require the buyer to execute and deliver a promissory note in favor of the National City Housing Authority so that the repayment of any initial subsidy is ensured.
  - c. Each for-sale affordable dwelling unit shall be occupied by the initial owner at all times until the resale of the affordable dwelling unit.
  - d. Upon the first resale of an affordable dwelling unit, the seller shall comply with all conditions regarding the sale of a dwelling unit, as applied by the National City Housing Authority, and as set forth in California Government Code Section 65915(c)(2).
8. Development shall comply with the California Department of Housing and Community Development Tenant Preference policies contained within Government Code Section 7061. Furthermore, development shall comply with the City of National City Preference Policy as stipulated in Resolution 2016-38.
- C. The applicant shall provide existing residents of affordable dwelling units with all of the following:
- 1. The ability to occupy their existing units until six months before the start of construction activities with proper notice, pursuant to California Government Code Sections 7260 through 7277. Any existing residents will be allowed to occupy their existing dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination of tenancy. The property owner shall deliver a written notice of intent to terminate tenancy to the National City Housing Authority and to each tenant household as part of the development permit application.
  - 2. To those households that remain in a protected affordable dwelling unit, the applicant shall provide:
    - a. Relocation benefits pursuant with the requirements of California Government Code Sections 7260 through 7277 for public agencies. The applicant or applicant's agent shall engage a qualified third-party contractor or consultant to oversee the provision of the required relocation benefits. The third-party contractor or consultant shall provide a letter to the National City Housing Authority certifying compliance with the relocation benefits requirements after completion of the relocation process.
    - b. A right of first refusal for a comparable dwelling unit available in the new development affordable to the household at an affordable rent or affordable housing cost based on household income.
    - c. Residents living within one mile of the development at the time of application shall receive priority for 75 percent of the affordable dwelling units in the development that are reserved for very low-income or low-income households. For National City residents who resided in National City for a period of three months or longer and who may have been displaced from their rental units in the preceding ten (10) year time frame and can demonstrate proof of National City residency from those ten years, those residents shall be eligible to receive priority for 75 percent of the new affordable dwelling units.

### **18.50.050 Tenant benefits, rights, and obligations.**

- A. The subdivider of a condominium conversion project shall provide the benefits specified in Section 18.30.090 (C) to persons whose tenancy in very low- and low-income units is in a project the subdivider terminates due to the condominium conversion.
- B. The applicant shall provide a relocation assistance payment to all tenants of the project including:

1. A relocation payment of three months' rent based on the current National City "fair market rent" for apartment size, as established by the U.S. Department of Housing and Urban Development. The relocation payment shall be paid no later than the day on which the applicant gives notice to the tenant to vacate the premises and shall be based upon the fair market rent at the time of the notice.
  2. The applicant shall provide relocation benefits pursuant to California Government Code Sections 7260 through 7277 for public agencies.
  3. The applicant or applicant's agent shall engage a qualified third-party contractor or consultant to oversee the provision of the required relocation benefits.
  4. The third-party contractor or consultant shall provide a letter to the National City Housing Authority certifying compliance with the relocation benefits requirements after completion of the relocation process.
- C. Any existing tenants in the project will be allowed to occupy their existing dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination of tenancy. The property owner shall deliver a written notice of intent to terminate tenancy to the National City Housing Authority and to each tenant household as part of the submission of a development permit.
- D. Displaced residents may relocate to a dwelling unit in National City or outside of the city's jurisdiction and remain eligible to apply for affordable housing opportunities within a ten-year period of vacating the affordable dwelling unit in which the resident established residency for a period of at least three (3) months in National City.

#### **18.50.060 Incentives in exchange for transit priority area affordable housing.**

An applicant proposing development that is consistent with the criteria in Section 18.50.030(A)(C) shall be entitled to the following incentives:

- A. Waiver of the existing FAR, and implementation of a new FAR based upon whether the development is located in FAR Tier 1 or FAR Tier 2 as specified in Section 18.50.020.
- B. Waiver of the maximum permitted residential density of the land use designation(s) in the applicable land use plan. Density shall be limited by the allowable floor area ratio of the affordable density bonus in FAR Tier 1 and FAR Tier 2 and the requirements of the California Building Code as adopted and amended by the City of National City, unless otherwise specified.
- C. Waiver of Development Impact Fees for all covenant-restricted affordable units and units exceeding 800 SF.
- D. Waiver of the following applicable base zone regulations:
  1. Minimum lot area if a qualifying development is proposed in a lot with an area of 5,000 square feet or less.
  2. Street frontage requirements, if safe and adequate access to the premises can be provided to the satisfaction of the Fire Department.
  3. Maximum lot coverage if a qualifying development is proposed in a lot with a maximum lot coverage of 75 percent or less.
  4. Floor Area Ratio (FAR) Bonus for Residential Mixed-Use. Development utilizing the regulations in this Division shall not be eligible for other FAR or density bonuses.
  5. Maximum front setback or street side setback if the maximum is 20 feet or less.
- E. Waiver of the personal storage area requirement in Section 18.42.070 (A)(7) and the private exterior open space requirement in Section 18.41.040 for all dwelling units in the development.

waiver for any development for which a written agreement and a deed of trust securing the agreement is entered into by the applicant and the National City Housing Authority.

1. A waiver means a request by an applicant to waive or reduce a development standard that physically precludes construction of development meeting the criteria of this Division.
2. Upon an applicant's request, a development that meets the applicable requirements of this Division shall be entitled to a waiver unless the City staff responsible for processing the development permit makes a written finding of denial based upon substantial evidence that is in compliance with State of California Affordable Housing Density Bonus Government Code, of any of the following:
  - a. The waiver would have a significant, quantifiable, direct, and unavoidable impact upon health, safety, or the physical environment for which there is no feasible method to mitigate or avoid the impact;
  - b. The waiver would be contrary to state or federal law. Requested waivers shall be analyzed in compliance with CEQA, and no waiver shall be granted without such compliance; or,
3. The granting of a waiver shall not require a General Plan amendment, zoning change, development permit, or other discretionary approval.
4. There is no limit on the number of waivers an applicant may request.

#### **18.50.070 Required provision of affordable dwelling units.**

- A. A. An applicant requesting the application of the regulations in this Division shall agree to the City of National City's written agreement to provide affordable dwelling units, entered into by the applicant and the National City Housing Authority and secured by a deed of trust, that meets the following requirements:
  1. Provides at least 10 percent of the post-density bonus rental dwelling units in the development, excluding any additional dwelling units allowed under a floor area ratio bonus, for rent by very low-income households at a cost, including an allowance for utilities, which does not exceed 30 percent of 50 percent of the AMI, as adjusted for household size.
  2. Provides at least 10 percent of the post-density bonus rental dwelling units in the development as three-bedroom units, excluding any additional dwelling units allowed under the FAR bonus, for rent by low-income households, including an allowance for utilities, which does not exceed 30 percent of 80 percent of the AMI, as adjusted for household size.
  3. For rental dwelling units to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:
    - a. The affordable dwelling units shall be comparable in bedroom mix and amenities to the market-rate dwelling units in the development, as determined by the National City Housing Authority, except that the affordable dwelling units shall not be required to exceed three bedrooms per dwelling unit. The affordable dwelling units shall have access to all common areas and amenities provided by the development. The square footage and interior features of the affordable units shall be good quality and consistent with current building standards for new housing in the City of National City.
    - b. The affordable dwelling units shall remain available and affordable for a period of at least 55 years, unless 100 percent of the dwelling units in the development are affordable and the development is owned and operated by an institution of higher education, including a community or junior college, college or university, or a religious institution-affiliated housing development project, as defined in California Government Code Section 65913.6, in which case

the affordable dwelling units shall remain available and affordable for a period of at least 25 years.

- B. Nothing in this Division shall preclude an applicant from using affordable dwelling units constructed by another applicant to satisfy the requirements of this Division, including contracting with an affordable housing developer with experience obtaining tax-exempt bonds, low-income housing tax credits, and other competitive sources of financing, upon approval by the National City Housing Authority.

### **18.50.080 Supplemental development regulations**

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize incentives or waivers provided in Section 18.50.060 to deviate from the requirements in Section 18.50.030.

- A. Pedestrian Circulation Space. All development shall include the following pedestrian circulation improvements:
1. Sidewalk Widening. A sidewalk widening enlarges a pre-existing or required sidewalk to a minimum of 10 feet in width measured perpendicular to the street. For a premise that is less than 25,000 square feet, an applicant may elect to provide public seating and pedestrian-oriented lighting, in lieu of a sidewalk widening.
  2. At least one, 24-inch box canopy tree is required for each 25 feet of street frontage on each side of the required sidewalk. See National City Street Tree guidelines for list of approved street trees.
  3. Above-ground utility placement within the sidewalk and/or pedestrian path is prohibited.
  4. Gated entryways and street yard fencing are prohibited.
  5. Green or cool roofs are defined as a roof with high reflectivity and emissivity that improves the energy efficiency of a building that has minimum reflectance of 0.70 and a minimum emittance of 0.75
- B. Buffer from Adjacent Freeways. Development on premises within 100 feet of a freeway shall comply with the following:
1. A 10-foot minimum landscaped buffer shall be provided between the residential and commercial uses and any freeway; and
  2. Outdoor areas such as balconies, patios, parks, plazas, and other spaces occupied by residents, customers, or members of the public shall be oriented away from the freeway.
- C. Transition to Adjacent Residential Single-Unit Zones. Development on premises directly adjacent to a Residential Single-zoned parcel, including RS-1; RS-2; RS-3, and RS-4, where an existing dwelling unit is located on the adjacent premises, shall comply with the following criteria:
- 1) Incorporate a transition plane in the development that does not exceed a 65-degree angle.
    - a. The transition plane for the development shall start from the shared property line with the RS zone and extend 1/3 of the lot depth.

## ***DIVISION 5. GLOSSARY***

### ***Chapter 18.650 GLOSSARY***