

**ORDINANCE NO. CS-457**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD,  
CALIFORNIA, AMENDING CARLSBAD MUNICIPAL CODE, TITLE 21 ZONING, TO  
ADD CHAPTER 21.88 AND AMEND CHAPTER 21.45, TO ESTABLISH CITYWIDE  
OBJECTIVE DESIGN STANDARDS FOR MULTIFAMILY HOUSING AND MIXED-  
USE DEVELOPMENT PROJECTS PURSUANT TO HOUSING ELEMENT PROGRAM  
1.11

CASE NAME: CITYWIDE OBJECTIVE DESIGN STANDARDS

CASE NO: ZCA 2020-0003, LCPA 2020-0007, PUB 2020-0004

WHEREAS, Section 65589.5 of the California Government Code requires cities and counties approve or deny eligible housing development projects based on objective regulatory standards; and

WHEREAS, Senate Bill 35 and Senate Bill 330 were signed into law, which amended state law to incentivize the construction of housing development projects through a streamlined permit review process; and

WHEREAS, the above legislative bills took effect between 2017-2019, and existing subjective design standards and guidelines are no longer enforceable for eligible housing development projects; and

WHEREAS, the city's Housing Element Program 1.11 adopted in 2021 requires the city to develop objective design standards for multifamily housing and mixed-use development projects; and

WHEREAS, the City Planner has prepared an amendment to the Zoning Ordinance (ZCA 2020-0003) and the Local Coastal Program (LCPA 2020-0007) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS, on July 6, 2023, the Airport Land Use Commission reviewed and found that the proposed Zone Code Amendment is consistent with the adopted San Diego County McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on July 19, 2023, the Planning Commission held a duly noticed public hearing as prescribed by law to consider AMEND 2021-0008/ LCPA 2023-0016; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7489 recommending the City Council introduce an ordinance approving an amendment to the Zoning Ordinance, to approve ZCA 2020-0003/ LCPA 2020-0007; and

WHEREAS, the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual, on file in the Planning Division, and incorporated herein by this reference, establishes reasonable, uniform, and comprehensive standards and procedures for multifamily housing and mixed-use residential development projects; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider ZCA 2020-0003/ LCPA 2020-0007; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to ZCA 2020-0003/ LCPA 2020-0007.

NOW, THEREFORE, the City Council of the City of Carlsbad, California, does ordain that:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7489 shall also constitute the findings of the City Council.
3. That the Carlsbad Municipal Code, Title 21 Zoning is hereby amended to include a new Chapter 21.88: Multifamily Housing and Mixed-Use Development Objective Design Standards as follows:

#### **Chapter 21.88**

#### **MULTIFAMILY HOUSING AND MIXED-USE DEVELOPMENT - OBJECTIVE DESIGN STANDARDS**

**Sections:**

<b>21.88.010</b>	<b>Purpose and Intent</b>
<b>21.88.020</b>	<b>Eligibility</b>
<b>21.88.030</b>	<b>Additional Provisions</b>
<b>21.88.040</b>	<b>Incorporation of the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual by Reference</b>
<b>21.88.050</b>	<b>Severability</b>

**21.88.010 Purpose and Intent**

The purpose of the objective design standards of this chapter is to provide the public, building and design professionals, and decision-makers with objective criteria for eligible new residential and mixed-use development in the city. The intent is to provide clear design direction that enhances an area's unique character and sense of place, allows design flexibility, and promotes construction of new housing in the city.

**21.88.020 Eligibility**

A. The following sections provides objective design standards required for use in the review of "developments" governed by California Government Code Section 65913.4 (Streamlined Ministerial Approval Process) and "housing development projects" as governed by California Government Code Section 65589.5 (Housing Accountability Act). These sections detail the review processes required for projects that provide, generally, either affordable or market rate multifamily housing development projects with at least two units or mixed-use development projects with at least two thirds square footage designated for residential uses. For full eligibility criteria, see the California Government Code sections listed above or the city's development application materials.

- B. These objective design standards are intended to apply exclusively to multifamily and mixed-use residential developments that consist of at least two attached dwelling units. These objective design standards do not apply to any other land development type, including a detached dwelling unit. Developments proposing detached dwelling unit product types or any other land development types are subject to the applicable objective standards found in other relevant regulatory documents and sections of code.
- C. Modification or expansion of an existing conforming structure used for multifamily housing or mixed-use development that includes attached units is also eligible to use applicable standards of the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual.

**21.88.030 Additional Provisions**

- A. **Other Applicable Objective Standards.** Eligible projects must comply with all other objective standards in the Carlsbad Municipal Code for topics on which Chapter 21.88 is silent.
- B. **Waivers.** A project applicant may request up to four (4) waivers to the applicable objective design standards provided in the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual without the requirement for an additional application. The waiver process set forth in this section is a separate process from the concessions/incentives and waiver process pursuant to Density Bonus Law (Govt Code Section 65915) and/or other applicable state laws. However, if the state density bonus concession/incentive or waiver is for an objective design standard in Section 21.88.030, it would be counted as one (1) of the four (4) allowed waivers under this section.
  - 1. The request must be made in writing as part of the application for the proposed project. The written justification for a waiver(s) must identify the design standard(s) that is requested to be waived and how the request meets the waiver findings listed below.
  - 2. **Waiver Findings.** The decision maker will consider the request and information provided and make findings to approve or deny the request. A waiver shall be granted only if all the following findings are made:
    - a. The proposed project meets the intent of the design standard under consideration, or a similar design standard is implemented in substitution.
    - b. The project meets the allowed density with the proposed waiver(s).
- C. **Conflicting Standards.** It is the intent of these objective design standards that all qualifying building and construction projects to the exterior of a building achieve design conformance with the objective standards provided in this document. If there is any conflict between these objective design standards and other applicable standards, the standards provided in the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual shall prevail. Exception: The objective design standards specified in the applicable master plan or specific plan shall prevail if such standards conflict with the standards of the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual.

**21.88.040 Incorporation of the Multifamily Housing and Mixed-Use Objective Design Standards Manual by Reference**

The City of Carlsbad’s Multifamily Housing and Mixed-Use Development Objective Design Standards Manual is incorporated by reference into this chapter.

**21.88.050 Severability**

Should any section, subsection, sentence, clause, or phrase of the ordinance codified in this chapter be held for any reason to be invalid or unconditional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The City Council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any part thereof be declared invalid or unconditional.

- 4. CMC Section 21.45.070 Table D is amended to delete the first table row and update Table D reference numbers once it is removed:

D.1	<b>Livable Neighborhood Policy</b>	<b>Must comply with city council Policy 66, Principles for the Development of Livable Neighborhoods</b>
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5. CMC Section 21.45.080 Table E is amended to delete the first table row and update Table E reference numbers once it is removed:

<b>E.1</b>	<b>Livable Neighborhood Policy</b>	<b>Must comply with city council Policy 66, Principles for the Development of Livable Neighborhoods</b>
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6. Proposed CMC Section 21.88.040 incorporates by reference the Multifamily Housing and Mixed-Use Development Objective Design Standards Manual on file in the Planning Division and incorporated herein by reference is approved.

**EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUTSIDE THE COASTAL ZONE:** This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance, or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

**EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES WITHIN THE COASTAL ZONE:** This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2020-0007, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 29th day of August, 2023, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 12th day of September, 2023, by the following vote, to wit:

AYES: Blackburn, Bhat-Patel, Acosta, Burkholder, Luna.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

Cindie K. McMahon  
CINDIE K. McMAHON, City Attorney

  
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KEITH BLACKBURN, Mayor

  
  
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SHERRY FREISINGER, City Clerk  
(SEAL)

