

ORDINANCE NO. 1134

AN ORDINANCE OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, APPROVEING CODE AMENDMENT (CA) 21-006 TO AMEND MUNICIPAL CODE SECTIONS 1-8.01, 9-3.301, 9-3.305, 9-3.505, 9-3.533, 9-3.535, 9-3.550, 9-5.103, AND TITLE 9, APPENDIX A: DEFINITIONS, TO COMPLY WITH STATE HOUSING REQUIREMENTS AND TO REMOVE BARRIERS TO PROVIDING HOUSING, AS IDENTIFIED TO BE ADDRESS WITHIN THE 2021 – 2029 CERTIFIED HOUSING ELEMENT; AND FINDING THAT NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY PURSUANT TO SECTION 15162 OF THE STATE CEQA GUIDELINES.

Whereas, the 2021-2029 adopted Housing Element has identified several goals, policies, and programs which included consideration of code amendments to Municipal Code Sections 1-8.01; 9-3.301; 9-3.305; 9-3.505; 9-3.533; 9-3.535; 9-3.550; 9-5.103, and Title 9, Appendix A: Definitions, to comply with state housing requirements and to remove barriers to providing housing; and,

Whereas, on July 20, 2021, the City Council approved the initiation of Code Amendment 21-006 and directed staff to conduct an appropriate study for amendments in accordance with the Housing Element (the “Project”); and,

Whereas, as the Project is currently proposed, the amendments would impact Municipal Code Sections 1-8.01; 9-3.301; 9-3.305; 9-3.505; 9-3.533; 9-3.535; 9-3.550; 9-5.103, and Title 9, Appendix A: Definitions; and,

Whereas, the proposed Project is being processed pursuant to Section 9-2.301, Development Review, of the Land Use Code; and,

Whereas, in December 1999, the City Council certified the Program Environmental Impact Report (“PEIR”) (SCH #99081117) for the City’s General Plan (“General Plan PEIR”), with the exception of the Housing Element, adopted a Mitigation Monitoring and Reporting Program, and approved the project pursuant to CEQA; and

Whereas, on January 21, 2014, the City Council adopted an Initial Study/Mitigated Negative Declaration (“IS/MND”) for the City’s Housing Element (5th Cycle), adopted a Mitigation Monitoring and Reporting Program, and approved the project pursuant to CEQA; and

Whereas, on August 16, 2022, the City Council adopted an Addendum to the 2014 Housing Element IS/MND and 1999 General Plan PEIR for the General Plan Housing, Safety & Environmental Justice Elements Update, and approved the project pursuant to CEQA; and

Whereas, in accordance with CEQA, the City's Environmental Administrator has determined that Project was previously evaluated in the Addendum to the 2014 Housing Element IS/MND and the 1999 General Plan PEIR and that pursuant to Public Resources Code section 21166 and CEQA Guidelines section 15162(a), no further

ATTACHMENT 1

environmental review is required; and,

Whereas, the Planning Commission conducted a duly noticed public hearing on February 11, 2026, pursuant to Title 9, Land Use Code, Section 9-2.302 and City Council Policy 5 to consider public testimony on the proposed Project and considered all relevant public comments and all documents and evidence submitted, including but not limited to the staff report and attachments, and materials submitted by the City. The Planning Commission adopted a resolution recommending that the City Council find that no further review is necessary pursuant to Section 15162 of the state CEQA Guidelines; and,

Whereas, the Planning Commission conducted a duly noticed public hearing on February 11, 2026, pursuant to Title 9, Land Use Code, Section 9-2.302 and City Council Policy 5 to consider public testimony on the proposed Project and considered all relevant public comments and all documents and evidence submitted, including but not limited to the staff report and attachments, and materials submitted by the City. The Planning Commission adopted Resolution 26-02-11-03 recommending City Council approval of CA 21-006; and,

Whereas, on April 7, 2026, the City Council conducted a duly noticed public hearing on this Ordinance pursuant to Municipal Code Section 9-2.302, at which time all persons wishing to testify were heard and the Project was fully considered; and,

Whereas, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUCNIL OF THE CITY OF SAN JUAN CAPISTRANO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The recitals set forth above are true and correct and are incorporated herein by reference as findings of the City Council.

SECTION 2. California Environmental Quality Act.

The City Council of the City of San Juan Capistrano does hereby find that the Project was adequately analyzed in the Addendum to the IS/MND adopted for the 2014-2021 Housing Element and the PEIR prepared for the 1999 General Plan and no further environmental review is required pursuant to State CEQA Guidelines, Section 15162. Specifically:

1. No substantial changes are proposed in the General Plan Housing, Safety, and Environmental Justice Elements Update that would require major revisions of the PEIR or IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

2. No substantial changes with respect to the circumstances under which the General Plan Housing, Safety, and Environmental Justice Elements Update was undertaken that would require major revisions to the PEIR or the IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects have occurred; and

3. No new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR or the IS/MND were certified and adopted, showing any of the following, has come to light: (i) that there would have one or more significant effects not discussed in the earlier environmental documentations; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentations; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects or (iv) that mitigation measures or alternatives considerably different from those previously analyzed would substantially reduce one or more significant effects on the environment but were declined by the City.

The City Council hereby directs staff to prepare, execute and file a Notice of Determination with the State Clearinghouse and County Clerk within five working days of the adoption of the Project's final approval.

SECTION 3. Findings - Amendment of the Land Use Code.

Based on the entire record before the City Council and all written and oral evidence presented, the City Council of the City of San Juan Capistrano does hereby make the following findings as established by Section 9-2.309, Code Amendment, of Title 9, Land Use Code of the City of San Juan Capistrano:

1. The proposed Project Code Amendment conforms with the goals and policies of the General Plan because it provides for the fulfilment of the Housing Element's goals and policies, including, Housing Element Goal 1, which provides, "Provide a broad range of housing opportunities with emphasis on providing housing that meets the special needs of the community," Goal 2, which provides, "To the maximum extent feasible, encourage and provide housing opportunities for persons of lower and moderate incomes," Goal 3, which provides, "Reduce or remove governmental constraints to the development, improvement, and maintenance of housing where feasible and legally permissible," Goal 5, which provides, "Promote housing opportunity and mobility for all residents to reside in housing of their choice," and particularly Policy 5.3, which provides "Accommodate persons with disabilities who seek reasonable waiver or modification of land use controls and/or development standards pursuant to procedures and criteria set forth in the zoning code." The proposed Project Code Amendment will remove barriers to the development of housing (removing code subjectivity and removing/reducing restrictive development standards), encourage the development of affordable housing (by-right review of housing sites, inclusionary housing updates), and promote housing for all residents of the city (reasonable accommodations code, supportive/transitional housing standards).

2. The proposed Project Code Amendment is necessary to implement the General Plan and to provide for public safety, convenience and/or general welfare because the proposed amendment achieves the goals and policies and implement specific programs identified within the of the General Plan Housing Element for the reasons listed above.

3. The proposed Project Code Amendment conforms with the intent of the Development Code and is consistent with all other related provisions thereof because the amendments would establish new development intent (Reasonable Accommodations), make meeting the intent easier through clearer and non-subjective language (Residential & Industrial districts, and Parking), or establish provisions which are consistent with the existing intent (Affordable Housing, Affordable Housing In-Lieu Fee, Nonconforming, Emergency, LBNC, Supportive & Transitional Housing Facilities, and Definitions), all of which meet the intent to make the development of all types of residential housing more streamline.

4. The proposed Project Code Amendment is reasonable and beneficial at this time because the City has identified these amendments as being necessary in the 2022 adoption of the 2021-2029 Housing Element. Codifying these proposed amendments is reasonable and beneficial to the public for clear understanding of the City's regulations.

SECTION 4. Findings – No Net Loss. Based on the entire record before the City Council and all written and oral evidence presented, the City Council of the City of San Juan Capistrano does hereby make the following findings in accordance with Government Code section 66300(b)(1)(A) and (h):

1. Code Amendment 21-006's includes an increase in setback requirements and a height reduction applicable to properties in the Mission Residential District (MRD) - 4,000 zone. Concurrently, Code Amendment 21-006 includes increases in lot coverage, floor area ratio, maximum allowable height, and an allowance for a third floor applicable to properties in the Multifamily Residential (RM) and Very High Density (VHD) zones. For the below reasons, these rezones will result in a net increase in the City's residential development capacity.

2. Currently, there are approximately 23.5 acres with a total of 123 parcels in the MRD-4,000 zone. The RM and VHD zones are significantly larger, with approximately 130 acres and 341 parcels. Accordingly, there are at least five times as many parcels zoned RM and VHD than MRD-4000 and almost three times as much acreage in the RM and VHD zones than the MRD-4000 zone.

3. The proposed increases in lot coverage, floor area ratio, maximum allowable height, and allowance for a third floor applicable to the 130 acres and 341 parcels in the RM and VHD zones will result in a net increase in residential development capacity in the City and offset the proposed increase in setbacks and height reduction applicable to the MRD-4,000 zone's 23.5 acres and 123 parcels.

4. For the above reasons, Code Amendment 21-006 will not result in a net loss in the City's residential development capacity; to the contrary, they will create a net increase in the City's residential capacity.

SECTION 5. Approval.

The City Council of the City of San Juan Capistrano hereby approves Code Amendment (CA) 21-006, amending Municipal Code Sections 1-8.01, 9-3.301, 9-3.305; 9-3.505; 9-3.533; 9-3.535; 9-3.550; 9-5.103, and Title 9, Appendix A: Definitions as shown in Exhibit A, attached hereto and incorporated herein by reference, and determines that no further CEQA review is required.

SECTION 6. Custodian of Records.

The documents and materials associated with this Resolution that constitute the record of proceedings on which these findings are based are located at San Juan Capistrano City Hall, 32400 Paseo Adelanto, San Juan Capistrano, California 92675. The Development Services Director is the custodian of the record of proceedings.

SECTION 7. Severability:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of San Juan Capistrano hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 8. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 9. City Clerk's Certification.

The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15) days after passage and adoption as required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance; and, within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED AND ADOPTED this 21st day of April 2026.


JOHN CAMPBELL, MAYOR

ATTEST:


CHRISTY JAKL, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, City Clerk of the City of San Juan Capistrano, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1134 which was regularly introduced and placed upon its first reading at the Regular Meeting of the City Council on the 7th day of April 2026 and that thereafter, said Ordinance was duly adopted and passed at the Regular Meeting of the City Council on the 21st day of April 2026 by the following vote, to wit:

AYES: COUNCIL MEMBERS: Farias, Hart, Bourne, Taylor and Mayor Campbell
NOES: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None


CHRISTY JAKL, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano;
That in compliance with State laws, Government Code section 36933(1) of the State of California, on the 8th day of April 2026, at least 5 days prior to the adoption of the ordinance, I caused to be posted a certified copy of the proposed ordinance entitled:

AN ORDINANCE OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, APPROVEING CODE AMENDMENT (CA) 21-006 TO AMEND MUNICIPAL CODE SECTIONS 1-8.01, 9-3.301, 9-3.305, 9-3.505, 9-3.533, 9-3.535, 9-3.550, 9-5.103, AND TITLE 9, APPENDIX A: DEFINITIONS, TO COMPLY WITH STATE HOUSING REQUIREMENTS AND TO REMOVE BARRIERS TO PROVIDING HOUSING, AS IDENTIFIED TO BE ADDRESS WITHIN THE 2021 – 2029 CERTIFIED HOUSING ELEMENT; AND FINDING THAT NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY PURSUANT TO SECTION 15162 OF THE STATE CEQA GUIDELINES

This document was posted in the Office of the City Clerk

CHRISTY JAKL, CITY CLERK
San Juan Capistrano, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss AFFIDAVIT OF POSTING
CITY OF SAN JUAN CAPISTRANO)

I, CHRISTY JAKL, declare as follows:

That I am the duly appointed and qualified City Clerk of the City of San Juan Capistrano; that in compliance with State laws, Government Code section 36933(1) of the State of California.

On the 22th of April 2026, I caused to be posted a certified copy of Ordinance No. 1134, adopted by the City Council on April 21, 2026, entitled:

AN ORDINANCE OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, APPROVEING CODE AMENDMENT (CA) 21-006 TO AMEND MUNICIPAL CODE SECTIONS 1-8.01, 9-3.301, 9-3.305, 9-3.505, 9-3.533, 9-3.535, 9-3.550, 9-5.103, AND TITLE 9, APPENDIX A: DEFINITIONS, TO COMPLY WITH STATE HOUSING REQUIREMENTS AND TO REMOVE BARRIERS TO PROVIDING HOUSING, AS IDENTIFIED TO BE ADDRESS WITHIN THE 2021 – 2029 CERTIFIED HOUSING ELEMENT; AND FINDING THAT NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY PURSUANT TO SECTION 15162 OF THE STATE CEQA GUIDELINES

This document was posted in the Office of the City Clerk

A handwritten signature in blue ink, appearing to read 'Christy Jakl', is written over a horizontal line.

CHRISTY JAKL, CITY CLERK
San Juan Capistrano, California

EXHIBIT A

Section 1-8.01 Reasonable Accommodation

- (a) Purpose and Intent. It is the policy of the City to make, as provided in this section, reasonable accommodation in the application of its programs, including its zoning and land-use laws, for disabled persons, to the extent required under federal and state disability laws. The purpose of this section is to establish a process for disabled persons to submit and for the City to review a request for reasonable accommodation.
- (b) Definitions. For the purposes of this section, unless otherwise apparent from the context, certain words or phrases used in this section are defined as follows:
 - (1) "Person with a disability" means: a person who has a physical or mental impairment that makes achievement of a major life activity difficult, as defined by state and federal disability laws; anyone who is regarded as having such impairment; or anyone with a record of such impairment.
 - (2) "RA Request" means a request for a Reasonable Accommodation submitted by, or on behalf of, a person with a disability.
 - (3) "Reasonable Accommodation" means providing persons with disabilities flexibility in the application of City programs, including City land-use, zoning and building regulations, policies, practices and procedures, or waiving certain requirements when it is necessary to provide meaningful access to City programs or to eliminate barriers to housing opportunities for persons with disabilities.
 - (4) "Review Authority" means the City Manager or the City Manager's designee. See subsection (c) below.
- (c) Review Authority. The City Manager or the City Manager's designee is the review authority for a RA Request. A denial of an RA Request may be appealed by the requestor to a hearing officer. The hearing officer's decision is final.
- (d) Applicability.
 - (1) Eligibility.
 - (A) An RA Request may be made by any person with a disability, his or her representative, or a developer or provider of housing or other services for persons with disabilities, when the application of a City program, including a City land-use or building regulation, policy, practice or procedure, acts as a barrier to meaningful access to City programs or to fair-housing opportunities for persons with disabilities.
 - (B) Federal and state disability laws afford no protection to persons with or without disabilities whose tenancy presents a direct threat to the persons or property of others. Determining whether someone's tenancy poses such a direct threat must be made on an individualized basis, however, and may not be based on general assumptions or speculation about the nature of a disability.
 - (2) Eligible Request. The subject matter of an RA Request may include a modification or exception to the practices, rules, or standards for a City program or for the development, siting, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability with meaningful access to City programs and equal opportunity to housing of the person's choice.

- (e) Application.
 - (1) Requirements. An RA Request may be initiated with the Review Authority orally or in writing. The City will not require a requestor to use a particular form or medium to initiate an RA Request. The law requires the Reasonable Accommodation process to be iterative and interactive. City staff will assist requestors in completing their RA Request as needed to ensure that the process is accessible to persons with disabilities.
 - (2) Administration. The City may create any forms, documents, online portals, telephone hotlines, or other methods to facilitate the submittal of RA Requests.
- (f) Review and Processing.
 - (1) Application Review. The Review Authority will approve, approve with conditions, or deny an RA Request in accordance with the required findings in subsection (g) below.
 - (2) Decision.
 - (A) Request for Further Information. The Review Authority may request further information from the applicant consistent with state and federal disability laws and this section, specifying in detail the further information required.
 - (B) Decision and Timing. The Review Authority will issue a written decision within 30 days of its receipt of a complete RA Request (including any additional information required under subsection (f)(2)(A) above). The written decision must: explain in detail the basis of the decision under the required findings in subsection (g), give notice of the applicant's right to appeal the decision, and be sent to the applicant by first-class mail with return receipt requested.
 - (3) Compliance with other Regulations. An approved accommodation does not affect any person's obligations to comply with all other applicable regulations not at issue in the requested accommodation.
 - (4) Confidentiality. Any information identified by an applicant as confidential will be retained in a manner so as to respect the privacy rights of the applicant and will not be made available for public inspection, unless disclosure is otherwise required by state or federal law.
- (g) Required Findings. Prior to approval of an RA Request, the following findings must be made consistent with federal and state disability laws:
 - (1) When housing is the subject of an RA Request, the housing will be used by a person with disabilities protected under fair housing laws.
 - (2) As applicable, the requested accommodation is necessary to make housing available to a person with disabilities protected under the fair housing laws.
 - (3) The requested accommodation would not impose an undue financial or administrative burden on the City.
 - (4) The requested accommodation would not require a fundamental alteration in the nature of the City's policies, practices or procedures, including consideration of alternatives which may provide an equal level of benefit.
 - (5) The requested accommodation will not result in a direct and significant threat to the health or safety of other persons or substantial physical damage to the property of others.
- (h) Appeals.

- (1) The action of the Review Authority is final unless appealed by the applicant within 15 days of the date that the Review Authority's decision is mailed to the applicant. The notice of appeal must be in writing . The Review Authority will schedule the appeal to be heard by a hearing officer within 45 days from the date that the City Clerk's Office receives the notice of appeal. The appellant is responsible for paying any appeal hearing fee, which may be established by City Council resolution and shall not exceed the reasonable cost to the City for retaining the hearing officer to conduct the hearing. The decision of the hearing officer is final and shall be mailed by first-class mail to the applicant with return receipt requested.
 - (2) Assistance with Appeal. Upon request, the City will provide assistance to a person needing assistance in filing an appeal to ensure that the appeals process is accessible to persons with disabilities.
-
- (i) Modifications Initiated by the Applicant. The applicant may apply for a modification to his or her accommodation. Any proposed modification will be treated by the city as a new RA Request and will be subject to the procedures set forth in subsections (a) – (h) above.
 - (j) Modifications or Revocations Initiated by the City.
 - (1) Review Authority and Findings. The Review Authority may make changes or revoke the approval of a Reasonable Accommodation applications when conditions of approval are violated, it is necessary to resolve a nuisance, or when the RA Request contained incorrect, false, or misleading information.
 - (2) Procedures. The Review Authority will notify the applicant of the change or revocation of the approval by first-class mail with return receipt requested no later than the next business day after the Review Authority's decision. The applicant may appeal the Review Authority's decision in accordance with subsection (h) above.

Sec. 9-3.301. Residential districts.

(a) Purpose and intent.

- (1) Residential/Agriculture (RA) District. The purpose and intent of the Residential/Agriculture (RA) District is to:
 - (A) Provide for the maintenance and use of land for small farms and orchards, excluding commercial animal raising, in association with single-family dwellings; and
 - (B) Implement the General Plan concept of providing for large lot, rural residential uses, including, but not limited to, low-density areas where the topography is not amenable to estate-type developments.
- (2) Hillside Residential (HR) District. The purpose and intent of the Hillside Residential (HR) District is to:
 - (A) Implement the programs and policies of the General Plan, including the Safety Element as it relates to protection from geologic hazards (unstable soils, prevention of erosion, and the like) and the Conservation and Open Space Element relating to the maintenance of the natural character and amenity of hillsides as a scenic resource of the City;
 - (B) Provide for the utilization of innovative land planning and building design as a means of achieving high quality, flexibility, and efficiency in the design of residential subdivisions within hillside areas of the City.
- (3) Single-Family-40,000 (RSE-40,000) District. The purpose and intent of the Single-Family-40,000 (RSE-40,000) District is to:
 - (A) Provide for the establishment and control of large lot estate type residential areas of low density, located and maintained in accordance with the General Plan; and
 - (B) Encourage the preservation of a semi-rural residential character without the maintenance of farm-size acreage.
- (4) Single-Family-20,000 (RSE-20,000) District. The purpose and intent of the Single-Family-20,000 (RSE-20,000) District is to:
 - (A) Provide for the establishment of residential areas of low density, located and maintained in accordance with the General Plan; and
 - (B) Regulate such areas in order to preserve and perpetuate a spacious, low-density residential character.
- (5) Single-Family-10,000 (RS-10,000) District. The purpose and intent of the Single-Family-10,000 (RS-10,000) District is to provide for the establishment and regulation of residential areas developed with single-family detached dwellings, all on individual lots owned and maintained by individual homeowners.
- (6) Single-Family-7,000 (RS-7,000) District. The purpose and intent of the Single-Family-7,000 (RS-7,000) District is to provide for the establishment and regulation of residential areas developed with single-family detached dwellings, all on individual lots owned and maintained by individual homeowners.
- (7) Single-Family-4,000 (RS-4,000) District. The purpose and intent of the Single-Family-4,000 (RS-4,000) District is to provide for the establishment and

- regulation of residential areas developed with single-family detached dwellings, all on individual lots owned and maintained by individual homeowners.
- (8) Residential Garden-7,000 (RG-7,000) District. The purpose and intent of the Residential Garden-7,000 (RG-7,000) District is to provide for the establishment and regulation of residential areas developed with garden, patio, duplex, or zero-lot-line homes, attached or detached, located and maintained in accordance with the General Plan.
 - (9) Residential Garden-4,000 (RG-4,000) District. The purpose and intent of the Residential Garden-4,000 (RG 4,000) District is to provide for the establishment and regulation of residential areas developed with garden, patio, duplex, or zero-lot-line homes, attached or detached, located and maintained in accordance with the General Plan.
 - (10) Multiple-Family (RM) District. The purpose and intent of the Multiple-Family (RM) District is to provide for the establishment and regulation of multiple-family residential areas of various medium-to-high unit densities, located and maintained in accordance with the General Plan.
 - (11) Very High Density (VHD) District. The purpose and intent of the Very High Density (VHD) District is to provide for the establishment and regulation of multiple-family residential areas of higher densities that provide for affordable housing for the City's lower income family and senior households, located and maintained in accordance with the General Plan.
 - (12) Mobilehome Park (MHP) District. The purpose and intent of the Mobilehome Park (MHP) District is to provide a district for the establishment and regulation of mobilehome parks, planned, developed, and maintained as an integral unit and incorporating utilities, landscaping, recreation facilities, and other amenities.
 - (13) Mission Residential District (MRD)-4,000 Zone District. The purpose and intent of the Mission Residential District (MRD)-4,000 Zone District is to provide for residential density and development standards to ensure that new development maintains and enhances the distinctive historic neighborhood character of the Mission Hill/Mission Flat residential neighborhood consisting of about twenty-seven (27) acres generally bordered by La Zanja Street to the north, Acjachema Street to the south, El Camino Real to the west, and Interstate 5 to the east. The designation allows predominantly single-family residential development on lots generally ranging from 4,000 to 7,500 square feet consistent with the distinctive neighborhood character established in the District.
 - (14) Planned Residential Development District (PRD). The purpose and intent of the Planned Residential Development District (PRD) is to provide for the establishment, maintenance, and regulation of condominium residential developments; to provide a means of achieving quality, variety, and flexibility in condominium-type developments on relatively large areas of land; and to provide for attractive residential developments planned as units, incorporating coordinated building design, integrated greenbelt areas, recreation facilities within developments, a more efficient use of open space, a separation of pedestrian and vehicular traffic, and an increase in overall project amenities.

- (15) Senior Mobilehome Park Overlay District. The purpose and intent of the Senior Mobilehome Park Overlay District is intended to preserve a variety and balance of housing types within the City, and it provides assurances that existing senior mobilehome parks within the Mobilehome Park District will remain exclusively available to seniors. The Senior Mobilehome Park Overlay District shall be designated by the symbol (MHP-SO) on the City of San Juan Capistrano Official Zoning Map. The (MHP-SO) designation applies to all of the four (4) senior mobilehome parks that exist as age-restricted in the City of San Juan Capistrano as of the effective date of this section.
- (b) Uses regulations.
- (1) Table 3-1 identifies the uses permitted in the Residential/Agriculture (RA), Hillside Residential (HR), Single-Family-40,000 (RSE-40,000) Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), Single-Family-4,000 (RS-4,000), Residential Garden-7,000 (RG-7,000), Residential Garden-4,000 (RG-4,000), Mission Residential District-4,000 (MRD-4000), Multiple-Family (RM), Very High Density (VHD), Mobilehome Park (MHP) Districts and Planned Residential Developments (PRD).
 - (2) Uses listed as conditionally permitted uses are subject to the review requirements and conditions contained in Section 9-2.315, Conditional Use Permit, of this Code. Accessory uses are subject to the review requirements and conditions contained in Section 9-3.501, Accessory Uses and Structures, of this chapter.
 - (3) The “notes and exceptions” column of Table 3-1 indicates more precisely the use regulations for specific uses or operating characteristics. The notes and exceptions must be reviewed in conjunction with the other information for the class of use.
 - (4) Certain permitted uses and conditionally permitted uses may be subject to special conditions regarding location, operation, or the design of the use. The sections of this title governing these uses are identified in the “notes and exceptions” column of Table 3-1.
 - (5) No Senior Mobilehome Park located within the MHP Senior District shall convert to a non-senior mobilehome park. At least eighty (80) percent of the spaces in mobilehome parks in the Senior Mobilehome Park Overlay District shall be occupied by at least one person fifty-five (55) years of age or older. If an existing mobilehome park met this qualification on January 1, 2017, and fell below the eighty (80) percent requirement between that date and the effective date of this section, the Senior Mobilehome Park Overlay District shall be applied to that mobilehome park and that park shall be required to operate as a Senior Mobilehome Park by renting spaces and mobilehomes only when at least one occupant of the mobilehome is fifty-five (55) years of age or older. The signage, advertising, park rules, regulations, rental agreements and leases for spaces in a Senior Mobilehome Park shall state that the park is a senior park.

Spaces and mobilehomes in a mobilehome park in the Senior Mobilehome Park Overlay District shall be rented only to an occupant that meets the age requirements set forth in this section; provided, however, that if any occupant of a space or mobilehome who does not meet this requirement rented the space or mobilehome before the effective date of the ordinance codified in this section, that occupant shall be allowed to remain, and provided further that when such occupant ceases to occupy a space or mobilehome, the mobilehome and space cannot thereafter be rented except to an occupant that is at least fifty-five (55) years of age or older.

- (6) Land use regulations and limitations on rentals.
 - (A) At least eighty (80) percent of the spaces in mobilehome parks in the designated Senior Mobilehome Park Overlay District shall be occupied by at least one individual aged fifty-five (55) years of age or older. If an existing mobilehome park met this qualification on January 1, 2017 and fell below the requisite eighty (80) percent threshold between that date and the effective date of the ordinance codified in this section, the Senior Mobilehome Park Overlay District shall be applied to that mobilehome park and the park shall be required to operate as a seniors only residential park by renting spaces and mobilehomes only to individuals where at least one occupant of the mobilehome or space is fifty-five (55) years of age or older.
 - (B) Except as otherwise provided in State law, spaces and mobilehomes in seniors only residential parks shall be rented only to an occupant who meets the age requirement set forth in Section 9-3.301, subdivision (b) of Article 3 of Chapter 3 of Title 9 (Land Use Code) of the San Juan Capistrano Municipal Code; provided, however, that if any occupant of a space or mobilehome does not meet the above specified age requirement for living in a park within the Senior Mobilehome Park Overlay District before January 1, 2017, such occupant shall be allowed to remain. When such occupant ceases to occupy any space or mobilehome, the mobilehome and space cannot thereafter be rented except to an occupant who does meet the age requirement set forth in Section 9-3.301, subdivision (b) of Article 3 of Chapter 3 of Title 9 (Land Use Code) of the San Juan Capistrano Municipal Code and is fifty-five (55) years of age or older.
 - (C) All signage, advertising, park rules, regulations, rental agreements and leases for spaces in a seniors only residential park in the Senior Mobilehome Park Overlay District must state that the park is a seniors only residential mobilehome park and must specify that such mobilehomes and/or spaces are only available for rent or lease by individuals such that at least one occupant of the mobilehome or space is aged fifty-five (55) years of age or older.
 - (D) Each and every mobilehome park within the Senior Mobilehome Park Overlay District and designated as seniors only residential park must have procedures, as may be established and revised by the Director of Development Services from time to time, for verifying that it qualifies as

a senior facility under applicable Federal and/or State law, including documentation establishing that at least eighty (80) percent of the mobilehomes or spaces within the mobilehome park are occupied by at least one occupant who is fifty-five (55) years of age or older. These procedures shall provide for regular updates, through surveys or other means of initial information supplied to the City by occupants of the park. Such updates must take place at least once every two (2) years commencing within one hundred eighty (180) days following the effective date of the ordinance codified in this section. Further, a summary of this occupancy verification documentation required to be maintained by the owner of a seniors only residential mobilehome park shall be available for inspection by the City upon written notice and request by the City.

Table 3-1

Uses in Residential Districts

(please refer to end of table for notes)

Use	RA	HR	RSE-40,000	RSE-20,000	RS-10,000	RS-7,000	RG-7,000	RS-4,000	MRD-4,000	RG-4,000	RM*	VHD	MHP & MHP-SO	PRD	Notes and Exceptions
Accessory dwelling unit (single-family)	P	P	P	P	P	P	P	P	P	P	—	—	—	—	a. Subject to Section 9-3.501, Accessory Uses and Structures. b. In the MRD-4,000 District, accessory dwelling units shall be permitted on lots of 6,000 square feet or greater in area.
Accessory uses and structures incidental to the operation of a permitted use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alcoholism or drug abuse recovery or treatment residential facilities that are licensed by the State for a maximum of 6 or fewer persons	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See California Health and Safety Code §§ 11834.02 and 11834.23.
Animal grazing, breeding, boarding, and training	—	P	—	—	—	—	—	—	—	—	—	—	—	—	These uses are considered interim uses until residential development plans are approved.
Animal keeping (noncommercial) in conjunction with a residential use of a lot	A	C	C	C	—	—	—	—	—	—	—	—	—	—	Excludes domestic animals which are permitted in conjunction with a residential use in all residential zoning districts without City approval and wild or exotic animals which are prohibited in all residential zoning districts. a. For RA District—Limited to farm animals, peafowl and animals allowed in HR, RSE-40,000 and RSE-20,000 Districts.

Use	RA	HR	RSE-40,000	RSE-20,000	RS-10,000	RS-7,000	RG-7,000	RS-4,000	MRD-4,000	RG-4,000	RM*	VHD	MHP & MHP-SO	PRD	Notes and Exceptions
															Excludes commercial livestock breeding and raising. b. For HR, RSE-40,000, and RSE-20,000 Districts—Must be on a lot size greater than 15,000 square feet and limited to small animals such as ducks, geese, pot-bellied pigs, outdoor exotic birds and other similar animals. Excluded are peafowl, which are prohibited and chickens, which are permitted by right and subject to Section 9-3.511.5. Animal slaughtering or commercial animal raising or breeding shall be prohibited.
Apiaries (noncommercial beekeeping)	C	C	C	C	—	—	—	—	—	—	—	—	—	—	Subject to Section 9-3.510.
Bed and breakfast establishments	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Subject to Section 9-3.509, Bed and Breakfasts.
Boarding and rooming houses, long-term	—	—	—	—	—	—	—	—	—	—	P	P	—	—	
Boarding and rooming houses, short-term	—	—	—	—	—	—	—	—	—	—	P	P	—	—	
Cemeteries	C	C	C	C	C	C	C	C	C	C	C	C	C	—	
Church, religious, or fraternal	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Includes synagogues, temples, mosques, and other buildings used for the purposes herein but excludes day care centers, and private and/or secondary educational facilities.
Community care facilities that are licensed by the State for a maximum of 6 or fewer persons	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See California Health and Safety Code § 1502(a)(1)—(18).
Crop and tree farming	A	P	—	—	—	—	—	—	—	—	—	—	—	—	For HR—These uses are considered interim uses until residential development plans are approved. For RA – Only permitted as incidental and accessory to the residential use on the site. Commercial manufacturing or packaging is prohibited.
Day care centers	—	—	—	—	—	—	—	—	—	—	—	—	—	—	See California Health and Safety Code § 1596.76.
Equestrian facilities (communal)	C	C	C	C	C	C	C	C	C	C	—	—	—	—	a. Must be in conjunction with a subdivision. b. Subject to Section 9-3.515, Equestrian Standards.
Family day care homes, large	C	C	C	C	C	C	C	C	C	C	C	C	C	C	

Use	RA	HR	RSE-40,000	RSE-20,000	RS-10,000	RS-7,000	RG-7,000	RS-4,000	MRD-4,000	RG-4,000	RM*	VHD	MHP & MHP-SO	PRD	Notes and Exceptions
Family day care homes, small	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Home businesses	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Subject to Section 9-3.523, Home Business.
Horse keeping (noncommercial)	A	A	A	A	—	—	—	—	—	—	—	—	—	—	Subject to Section 9-3.515, Equestrian Standards.
Horse stables and equestrian centers (commercial)	C	—	—	—	—	—	—	—	—	—	—	—	—	—	Subject to Section 9-3.515, Equestrian Standards.
Hotels	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Kennels (commercial)	C	—	—	—	—	—	—	—	—	—	—	—	—	—	Subject to Section 9-3.525, Kennels.
Kennels (noncommercial)	A	C	C	C	—	—	—	—	—	—	—	—	—	—	Subject to Section 9-3.525, Kennels.
Low Barrier Navigation Centers	See Section 9-3.550														
Manufactured and modular homes on a permanent foundation system	P	P	P	P	P	P	P	P	P	P	P	P	P	P	Manufactured or modular structures shall not be permitted in the MDR-4,000 District. Structures shall be subject to the design guidelines of subsection (c), Development Standards, of this section.
Mining, oil drilling, and other resource extraction	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Includes necessary incidental buildings and appurtenances.
Mobilehome parks	—	—	—	—	—	—	—	—	—	—	—	—	C	—	
Parks (public and private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Plant nurseries and storage	P	P	—	—	—	—	—	—	—	—	—	—	—	—	a. Includes greenhouses, hydroponic gardens, and similar facilities, for the purpose of growing only. b. The retail sales of products shall not be permitted. c. For HR—These uses are considered interim uses until residential development plans are approved.
Public buildings and facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	a. Includes public schools, museums, libraries, governmental buildings, parks, fire stations, public utility offices and exchanges, bus, and railroad stations. b. Excludes police stations and hospitals.
Recreation and community centers (noncommercial public and private)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	a. Tennis courts and other outdoor recreational uses within such centers shall conform to the requirements of Sections 9-3.501, Accessory Uses and Structures, and 9-3.529, Lighting Standards. b. The outdoor night lighting of tennis courts and other

Use	RA	HR	RSE-40,000	RSE-20,000	RS-10,000	RS-7,000	RG-7,000	RS-4,000	MRD-4,000	RG-4,000	RM*	VHD	MHP & MHP-SO	PRD	Notes and Exceptions
															recreational uses shall not be permitted unless a conditional use permit is approved by the City.
Recycling facilities	—	—	—	—	—	—	—	—	—	—	—	—	P	—	Subject to Section 9-3.537, Recycling Facilities. Section 9-3.537, Recycling Facilities, identifies the specific allowed recycling uses.
Residential dwellings (detached SFD)	P	P	P	P	P	P	P	P	P	P	P	P	—	P	
Residential dwellings (attached SFD)	—	—	—	—	—	—	P	—	—	P	P	P	—	P	
Residential dwelling units (duplex, two-family)	—	—	—	—	—	—	P	—	—	P	P	P	—	P	Must be located on a single lot or with each dwelling on its own lot.
Residential dwelling units (multiple-family, apartments and cooperatives)	—	—	—	—	—	—	P	—	—	P	P	P	—	P	
Residential dwelling units (multiple-family, townhouses, condos)	—	—	—	—	—	—	P	—	—	P	P	P	—	P	
Residential dwelling (temporary)	A	A	A	A	A	A	—	A	A	—	—	—	—	—	Allowed during the construction of a permanent single-family residence on an individual lot in accordance with the provisions of Section 9-3.553, Temporary Uses and Structures.
Single Room Occupancy Units	—	—	—	—	—	—	—	—	—	—	P	P	—	—	Subject to Section 9-3.505 (e).
Supportive Housing	See Section 9-3.550														
Swimming schools, tennis clubs and schools, and similar activities	—	—	—	—	—	—	—	—	—	—	C	C	—	—	Must be deemed by the Planning Commission to be compatible with the existing or proposed residential uses.
Tennis/sport courts, swimming pools, and similar improvements on individual residential lots	A	A	A	A	C	C	—	C	C	—	—	—	—	—	a. The requirements of Sections 9-3.501, Accessory Uses and Structures, and 9-3.529, Lighting Standards. b. The outdoor night lighting of such tennis courts or other recreational uses shall not be permitted unless a conditional use permit is approved by the City.
Transitional Housing	See Section 9-3.550														

P = Principal use permitted by right

— = Not permitted

A = Accessory use permitted by right (subject to Section 9-3.501, Accessory Uses and Structures)

C = Conditional use permit required (subject to Section 9-2.317, Conditional Use Permit)

(c) Development standards.

- (1) Table 3-2 identifies the development standards for the Residential/Agriculture (RA), Hillside Residential (HR), Single-Family-40,000 (RSE-40,000) Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), Single-Family-4,000 (RS-4,000), Residential Garden-7,000 (RG-7,000), Residential Garden-4,000 (RG-4,000), Mission Residential District-4,000 (MRD-4000), Multiple-Family (RM), Very High Density (VHD), Mobilehome Park (MHP) Districts, and Planned Residential Development District (PRD).
- (2) Hillside Residential (HR) District development standards. Development within the Hillside Residential (HR) District shall comply with the following standards:
 - (A) Calculation of total allowable dwelling units. Within the Hillside Residential (HR) District, the total allowable residential dwelling units shall be calculated based on the total land area within each slope category pursuant to subsection (B) of this subsection, below. All land area included within a parcel is to be included in the calculation of total allowable dwelling units if all land within the parcel is designated for residential development by the Land Use Element of the General Plan.
 - (B) Residential dwelling unit calculations. Using the slope calculation procedure described in subsection (D) of this subsection, the maximum allowable number of residential dwelling units shall be calculated by totaling the maximum number of dwelling units allowed within each slope category as depicted in Table 3-3.

Table 3-3

Hillside Residential District

Dwelling Unit Calculation

Slope Category	Dwelling Units per Acre
0—10 percent	100 percent of maximum density for General Plan residential land use designation
11—15 percent	90 percent of maximum density for General Plan residential land use designation
16—20 percent	75 percent of maximum density for General Plan residential land use designation
21—25 percent	55 percent of maximum density for General Plan residential land use designation
26—30 percent	35 percent of maximum density for General Plan residential land use designation
30—39 percent	10 percent of maximum density for General Plan residential land use designation
40 percent or greater	Zero percent of maximum density for General Plan residential land use designation

- (C) Clustering of dwelling unit allocations or graduated lot sizes. Within a tentative map, planned development permit, vested tentative map or any other applicable entitlement, dwelling unit allocations calculated for land areas having slopes in excess of twenty-five (25) percent shall be transferred to land areas having slopes of less than twenty-five (25) percent, except no dwelling units shall be allowed on land with less than twenty-five (25) percent slope on or adjacent to a designated ridgeline identified in the Conservation and Open Space Element of the General Plan. When transfers of dwelling unit allocations as described above occur, the resulting minimum lot size for a single-family detached dwelling shall not be less than ten thousand (10,000) square feet per dwelling unit or unless an exception is granted by the City Council.
- (D) Slope calculation procedure. The following method shall be used to determine the slope of any land within the Hillside Residential (HR) District: The parcel of land shall be divided into subareas or cells of approximately one hundred (100) feet by one hundred (100) feet (thirty (30) meters by thirty (30) meters). Within each cell, the slope shall be calculated by the following formula:

$$S = \frac{I \times L \times 100}{A}$$

Where:

S = Average ground slope in percent, calculated for each cell to be rounded to the nearest whole number.

I = Interval, in feet, of the topographic map contour lines. The contour interval shall be ten (10) feet or less for calculating slope.

L = The sum, in feet, of the length of all contour lines within the cell, at the selected contour interval "I".

A = The total area of the cell, in square feet. A cell 100 feet by 100 feet has an area of 10,000 square feet (100 feet x 100 feet = 10,000 square feet).

The areas of cells with each slope category shall be combined to identify the total land areas within the parcel within each of the slope categories identified in subsection (B) of this subsection. The maximum allowable number of residential dwelling units can then be calculated as described in subsection (B) of this subsection.

- (E) Slope map required. All computations for slope and the maximum allowable number of residential dwelling units, including a topographic map, shall be prepared and signed by a registered civil engineer or a licensed land surveyor and submitted to the Environmental Administrator. The topographic map shall have a scale of not less than one inch to 200 feet and a contour interval of not more than ten (10) feet. This topographic map shall include all adjoining land area within 150 feet of the site

boundaries. The map shall depict the slope category of each cell so that cells within the same category are visually recognizable.

- (F) Hillside grading requirements. The following hillside grading requirements shall apply in the Hillside Residential (HR) District:
 - (i) Grading shall blend any manmade or manufactured slope into the natural topography;
 - (ii) Grading shall adhere to the Ridgeline and Open Space preservation district standards found in Section 9-3.411;
 - (iii) To the maximum extent possible, grading shall preserve natural topographic features, including canyons, drainage swales, steep slopes, watershed areas, and floodplains;
 - (iv) To the maximum extent possible, grading shall preserve prominent landmark features including natural rock outcroppings and prominent healthy California native trees with a diameter of 24" more;
 - (v) The design and arrangement of building sites shall utilize clustered lot designs, and setback variations, to limit the extent of grading alterations; and
 - (vi) Grading shall utilize existing or introduced plant materials to protect slopes from soil erosion and slippage and minimize the visual effects of grading and construction on hillside areas.
- (G) [Reserved]
- (H) Non-applicability. The development standards and requirements set forth in this subsection, upon a determination of the Development Services Director, shall not apply to those specific developments or applications involving site preparation for one or more of the following types of projects:
 - (i) A single-family dwelling unit and accessory buildings on a single parcel of record on date of the adoption of this Title;
 - (ii) Two (2) or more residential dwelling units and accessory buildings on a single parcel wherein the minimum average amount of land area per dwelling unit equals ten (10) acres or more;
 - (iii) The use, development, or alteration of land, including the projects set forth in subsections (i) and (ii) of this subsection, wherein less than ten (10) percent of the surface area of the land is to be graded or where grading operations involve less than 5,000 cubic yards of dirt and/or
 - (iv) The property is part of a subdivision application that was subject to the provisions of this section and has previously been reviewed and approved by the City Council.

Applications for a determination of nonapplicability as set forth in this subsection shall be made to the Development Services Director. The applicant shall submit a written request and such data or plans as may be required by the Development Services Director to render a decision in accordance with the provisions of this subsection. A determination of nonapplicability from the standards or requirements of this section shall be granted only if the Development Services

Director finds that the development plans meet the development requirements set forth in this subsection and that the development of the land in questions will serve to comply with the purposes and objectives of the Hillside Residential (HR) District.

- (3) Multiple-family development requirements. The following development requirements shall apply in the Multiple-Family (RM) and Very High Density (VHD) Districts:
 - (A) Recreational facilities.
 - (i) Residential developments shall include outdoor recreational facilities for the exclusive use by the residents of the development. The area of the recreation facilities shall be at least 200 square feet per housing unit.
 - (ii) Recreational facilities must include one or more of the following amenities: a swimming pool, spa, picnic shelter/barbecue area with seating, recreational courts, open playing fields, children's play equipment, walking trails/paths, and dog parks.
 - (iii) For developments with 30 units or less, one recreational facility, as identified in section 9-3.301(c)(3)(A)(ii) above, must be included. For developments with more than 30 units but less than 100 units, two separate recreational facilities must be included. For developments with 100 or more units, three separate recreational facilities must be included.
 - (B) Management agencies. A management agency shall be created by the project developer to maintain all the recreational facilities and common area landscaping and to assume other responsibilities as appropriate. Management agencies shall be responsible for assuring that the development complies with the maintenance standards per Title 8 of this Municipal Code.
 - (C) Storage facility. Each unit within a development shall have a personal storage facility designated for the unit use. The storage facility must be enclosed and be able to be locked closed. The storage facility shall not be used as living space.
 - (D) Community focal point. Projects with 50 units or more must incorporate a community focal point that is accessible to all residents. Community focal points may be indoors or consist of outdoor plazas or courtyards which include shading, seating, and decorative features.
- (4) Mission Residential District. The following development requirements shall apply to new construction in the Mission Residential District (MRD) District. The intent of this district is to maintain a community character complementary to that currently existing in the area.
 - (A) Project Review.
 - (i) Any proposal to construct, demolish, remove, relocate, or alter any structure in the MRD District shall be subject to review by the

Development Services Director or their designee as to conformance with the requirements of this section.

- (B) Building material standards.
 - (i) No metal siding or fiberglass panels are permitted on either primary or accessory structures.
 - (iii) Permitted building materials shall be limited to wood, stone, brick, stucco, plaster, asphalt-composition shingle, fire-resistant wood shingle, clay tile, horizontal lap siding, board and batten siding and fibrous cement siding.
 - (iv) Where an addition or alteration is proposed to an existing building, materials associated with the addition or alteration shall match the materials of the existing building.
 - (v) Fluorescent colors shall be prohibited.
- (C) Site design standards.
 - (i) The main pedestrian entry to residences shall face the street of access.
 - (ii) Garage doors shall either be side-loaded or be no closer to the street than the main pedestrian entry to the residence.
 - (iii) Sidewalks, curbs and gutters within the public right-of-way will not be required unless the City Engineer determines that they are needed for drainage and public safety.
 - (iv) No more than forty (40) percent of the yard area within the front setback shall be paved. Divided driveways are permitted to limit paving.
 - (vi) No sheds or other accessory structures shall be permitted in front yards, or within side yards adjoining any street.
 - (viii) Fencing within yards adjacent to the public right-of-way shall be open, with at least fifty (50) percent visibility. No chain link fencing shall be permitted in front yards or side yards adjoining public or private streets.
- (5) Planned Residential Development District. The following development requirements shall apply in the Planned Residential Development (PRD) District.
 - (A) Recreational Facilities: Developments shall provide outdoor recreational facilities in accordance with Section 9-3.301(c)(3)(A).
 - (B) Homeowner's Associations: A homeowner's association shall be created to maintain all the common area recreational facilities and landscaping and to assume other responsibilities as appropriate.
 - (C) Development Plans: Plans approved by the City during the development review process shall not be altered, unless such alteration is approved by the City as defined in Section 9-3.301(c)(5)(E).
 - (D) Development Standards: For the purposes of this section, "lot cluster" shall mean any single lot, or group of adjacent lots having a single perimeter boundary enclosing all of the lots. For example, four (4) attached townhomes would have contiguous lots, a single perimeter boundary, and would constitute a lot cluster. The following development

standards shall apply in the Planned Residential Development (PRD) District:

- (i) The minimum distance between lot clusters shall be fifteen (15) feet.
 - (ii) The maximum number of lots within each lot cluster shall be eight (8).
 - (iii) The minimum distance between any primary building and a private street shall be ten (10) feet.
 - (iv) The minimum distance between any primary building and a public street shall be twenty (20) feet.
 - (v) The minimum distance between any primary building and project boundary shall be twenty (20) feet for single-story units and thirty (30) feet for two-story units.
 - (vi) The minimum distance between any accessory building and project boundary shall be five (5) feet
 - (vii) The architectural features of all buildings, such as eaves, cornices, chimneys, and similar minor outcroppings, may extend beyond an individual lot line into a project common area a maximum of three (3) feet.
- (E) Exceptions: All alterations to development plans shall adhere to Section 9-3.301(c)(5)(C) except as follows:
- (i) Minor Alterations (Structural): The Development Services Director or their designee may approve an addition not to exceed ten (10) percent of the existing building area or five hundred (500) square feet, whichever is less, provided the following conditions are met:
 - The area of addition does not exceed the setbacks of the existing structure, as established for the existing residential dwelling unit.
 - The proposed addition is architecturally integral to the structure.
 - The proposed addition is located on property owned exclusively by the property owner of the existing residential dwelling unit and is not under common ownership.
 - The proposed addition meets all the development standards as established within the Planned Residential Development District.
 - (ii) Minor Alterations (Accessory Structures): The Development Services Director or designee may approve accessory structures provided the following conditions are met:
 - The accessory structures are open structures which do not add habitable living space and are attached to the principal structure onsite.
 - Prior to approval the applicant shall provide written approval of the proposed accessory structure by the subject Homeowners' Association.
 - The proposed addition meets all of the development standards as established within the Planned Residential Development District.

(d) Displacement prevention.

- (1) In accordance with Government Code section 66300.6(a), the City shall not approve a housing development project that will require the demolition of one or more residential dwelling units unless the proposed project will create at least as many residential dwelling units as will be demolished in the project.
 - (2) In accordance with Government Code section 66300.6(b), the City shall not approve a development project that will require the demolition of occupied or vacant protected units, or that is located on a site where protected units were demolished in the previous five years, unless the project complies with the applicable replacement provisions set forth in Government Code section 66300.6(b)(1)-(5).
 - (3) The terms used in subsections (d)(1) and (d)(2) above are defined in Government Code section 66300.5. In the event of any inconsistency between this subsection (d) and state law, state law prevails.
- (e) Development review. Projects proposed within the Residential/Agriculture (RA), Hillside Residential (HR), Single-Family-40,000 (RSE-40,000) Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), Single-Family-4,000 (RS-4,000), Residential Garden-7,000 (RG-7,000), Residential Garden-4,000 (RG-4,000), Mission Residential District Residential-4,000 (MRD-4000), Multiple-Family (RM), Very High Density (VHD), Mobilehome Park (MHP) and Planned Residential Development (PRD) Districts shall be subject to applicable review procedures as set forth in Article 3 Development Review Procedures of Chapter 2 of this title.
- (f) Supplementary district and temporary use regulations. For sign, parking, fence, swimming pool, and similar regulations for the Residential/Agriculture (RA), Hillside Residential (HR), Single-Family-40,000 (RSE-40,000) Single-Family-20,000 (RSE-20,000), Single-Family-10,000 (RS-10,000), Single-Family-7,000 (RS-7,000), Single-Family-4,000 (RS-4,000), Residential Garden-7,000 (RG-7,000), Residential Garden-4,000 (RG-4,000), Mission Residential District-4,000 (MRD-4000), Multiple-Family (RM), Very High Density (VHD), Mobilehome Park (MHP) and Planned Residential Development (PRD) Districts, see Article 5 Supplementary District Regulations of this chapter.

Table 3-2
Development Standards for Residential Districts

				1 st Story ¹	1 st Story ¹	1 st Story ¹	1 st Story ¹	1 st Story ¹	2 nd Story ¹	2 nd Story ¹	2 nd Story ¹	2 nd Story ¹	
District	Max. Density	Min. Lot Area	Min. Street Frontage ²	Min. Front Yard ^{3,4,7}	Min. Side Yard ^{3,5,6,7,19}	Min. Rear Yard ^{3,7,19}	Max. Lot Coverage Ratio	Min. Front Yard ^{3,4}	Min. Side Yard ^{3,5,6}	Min. Rear Yard ^{3,7,19}	Max. Lot Coverage ratio	Max. 2nd floor/1st floor ratio ⁹	Bldg. Hgt. ^{8,9}
RA ¹¹	0.4 du/ac	2.5 acres	200 ft.	150 ft.	20 ft.	50 ft.	0.12	150 ft.	20 ft.	50 ft.	0.12	75%	35 ft.
HR ¹³	Ref. 9-3.301c(2)	10,000 sq. ft.	60 ft.	25-20 ft.	15-5 ft.	25/20 ft.	0.40	25-20 ft.	15-5 ft.	25-20 ft.	0.35	80%	35 ft.
RSE-40,000 ¹¹	1 du/ac	40,000 sq. ft.	150 ft.	30 ft.	20 ft.	25 ft.	0.15	30 ft.	20 ft.	25 ft.	0.15	75%	35 ft.
RSE-20,000 ¹¹	2 du/ac	20,000 sq. ft.	90 ft.	30 ft.	10 ft.	25 ft.	0.25	30 ft.	10 ft.	25 ft.	0.25	80%	35 ft.
RS-10,000 ¹¹	3.5 du/ac	10,000 sq. ft.	60 ft.	20 ft.	10-5 ft.	25 ft.	0.40	20 ft.	10 ft.	25 ft.	0.35	80%	35 ft.
RS-7,000 ^{11,14}	5 du/ac	7,000 sq. ft.	60 ft.	20 ft.	5 ft.	20 ft.	0.45	20 ft.	10-5 ft.	20 ft.	0.32	80%	35 ft.
RG-7,000 ^{11,14,15}	5 du/ac	7,000 sq. ft.	60 ft.	20 ft.	10-0 ft.	20 ft.	0.45	20 ft.	10-0 ft.	20 ft.	0.32	80%	35 ft.
RS-4,000 ^{11,14}	8 du/ac	4,000 sq. ft.	50 ft.	18 ft.	5 ft.	16 ft.	0.50	20 ft.	10-5 ft.	20 ft.	0.35	80%	35 ft.
MRD-4,000 ^{411,17,18,19}	8 du/ac	4,000 sq. ft.	50 ft.	18 ft.	5 ft.	16 ft.	0.50	25 ft.	8 ft.	20 ft.	0.35	80%	25 ft.
RG-4,000 ^{11,14,15}	8 du/ac	4,000 sq. ft.	50 ft.	18 ft.	10-0 ft.	16 ft.	0.50	20 ft.	10-0 ft.	20 ft.	0.35	80%	35 ft.
RM ^{*16}	18 du/ac	0.5 ac	60 ft.	30 ft.	20 ft.	20 ft.	NA	20 ft.	20 ft.	20 ft.	0.40	95% ²¹	45 ft.
VHD ¹⁶	30 du/ac ²⁰	0.5 ac	60 ft.	30 ft.	20 ft.	20 ft.	NA	20 ft.	20 ft.	20 ft.	0.40	95% ²¹	45 ft.
MHP & MHP-SO Development standards for mobilehomes shall be per State Law.													
PRD	Refer to subsection 9-3.301(b)(5)(D)												

Max. = Maximum, Min. = Minimum, DU = Dwelling Unit, Yd. = Yard, Bldg. = Building, and Hgt. = Height

Notes:

1 All new residential projects shall incorporate a combination of one- and two-story units adjacent to all master planned arterial streets, with at least 20% of the total project units being one story. In addition, in the HR District, two-story structures shall not be located adjacent to project entries or to existing single-story residences. Second story setbacks are only applied to the second story of a two-story structure.

2 Lots with street frontages below the minimum set forth in this table may be permitted without the approval of a variance if all the following conditions are met.

- (a) The lot's street frontage remains a minimum of 20 feet;
 - (b) The lot is designed such that the reduced width portion constitutes an access corridor to the buildable portion, which is set back away from the street;
 - (c) The minimum width of the buildable portion of the lot conforms to the requirements of this table; and
- The actual creation of reduced frontage lots shall be subject to normal City approval of required tract or parcel maps. Reduced frontage portion of such lots shall not be included in the computation of lot area (see Section 9-4.315, Irregular and Cul-de-Sac Lots).
- 3 The criteria for measuring setbacks on irregularly shaped and cul-de-sac lots are set forth in Section 9-4.315, Irregular and Cul-de-Sac Lots.
 - 4 The setback for garages shall maintain the minimum setbacks for the district. If the garage is a side entry, the front yard setback may be reduced to a minimum of 10 feet. However, in no instance shall side entry garages using this standard exceed 20% of the total units for a new residential project. In the MRD-4,000 District, garages shall comply with Section 9-3.301(c)(4)(C)(ii).
 - 5 Architectural projections may extend into required side yards no more than 40% of the applicable district requirement, or more than 3 feet whichever is less.
 - 6 Minimum exterior side yard setbacks from a public or private street shall not be less than 10 feet for all districts, except for the HR District, in which the minimum exterior side yard setbacks adjacent to the street shall not be less than 15 feet.
 - 7 On lots with an existing building setback encroachment into a required front, side or rear yard, structural additions having the same said encroachment shall be permitted without the approval of a variance. However, no new encroachment in excess of that existing, nor any new encroachment may be permitted without the approval of a variance (see Section 9-3.533, Nonconforming Uses, Lots, and Structures). Notwithstanding the preceding, any side setback encroachments for dwellings within the Capistrano Garden Homes 2 project area shall require a variance or an exception.
 - 8 Only buildings in the RM & VHD zones are permitted to have a third floor. The third floor shall be no larger than 90% of the second floor.
 - 9 For purposes of calculating the 2nd floor to 1st floor ratio, one-story open volume area over 15 feet in height, garage area and enclosed porches shall be included in the calculation.
 - 10 [Reserved]
 - 11 Single-family Design Standards. In all districts where single-family dwellings (site-built, modular, or manufactured home) are permitted, such dwellings shall be subject to the development standards for that district as well as the following requirements:
 - (a) The minimum width of the residential dwelling shall be no less than 40% of the average width of the lot. For the purposes of this section, the width of the residence shall be distinguished from the length of the building as the dimension having the lesser measurement;
 - (b) Metal siding shall not be permitted;
 - (c) Roof eaves and gables, when included, shall be no less than 12 inches, measured from the vertical side of the unit.
 - 12 [Reserved]
 - 13 In the HR District, as part of the subdivision review process, lots shall comply with the following:
 - (a) At least 30% of the units shall maintain a minimum front yard setback of 25 feet and rear yard setback of 20 feet;
 - (b) At least 70% of the units shall maintain a minimum front yard setback of 20 feet and rear yard setback of 25 feet;
 - (c) The minimum side yard setbacks shall be 15 feet combined, but not less than 5 feet on one interior side yard.
 - (d) Existing healthy California native trees (as determined by a Licensed Arborist) with a diameter of 24" or more shall be preserved and integrated into the design of the project. Exceptions to this may be considered by the Planning Commission through a Tree Removal Permit.
 - 14 Projects that propose 7,000 square foot lots or less shall provide private common recreational facilities equal to 250 square feet per unit. In addition, the minimum setback from a master planned arterial street shall be 25 feet as measured from the ultimate right-of-way. A homeowner association shall be created to maintain all the recreational facilities and landscaping and to assume other responsibilities as appropriate.
 - 15 The RG-7,000 and RG-4,000 Districts allow attached units with zero lot lines.
 - 16 In the "RM" and "VHD" Districts, a minimum distance of 20 feet shall be maintained between all principal buildings.
 - 17 Single-family homes shall be permitted as a primary land use within the GC district in neighborhoods where existing development is predominantly single-family residential. Such existing lots, on which single-family residences are the primary use, shall be subject to the single-family development standards of the RS-7000 district or other residential district as determined most applicable by the Development Services Director.
 - 18 In the Mission Hill area of the MRD-4,000 District, lots with an average slope in the front yard of less than 15% shall comply with the minimum front yard setback. Lots with an average slope equal to or greater than 15% shall provide a minimum 10 feet setback. In the Mission Flat area of the MRD-4,000 District, the principle dwelling, with or without an attached front-loaded garage.
 - 19 In the MRD-4,000 District, detached garages situated to the rear of the principal dwelling shall maintain a minimum 3'-0" side and rear yard setback.
 - 20 Density shall not be less than 18.1 du/ac in accordance with the General Plan.

Sec. 9-3.305. Industrial districts. Table 3-6

Table 3-6
Uses in Industrial Districts
 (please refer to end of table for notes)

Use	CM	IP	A	Notes and Exceptions
Accessory uses incidental to the operation of a permitted use	A	A	A	Includes cafeterias, snack bars, delicatessens, industrial products showrooms, conference rooms, business and professional offices, training classrooms, and caretakers' residences.
Adult-oriented business		P	—	a. Subject to the provisions of Title 5, Chapter 27, and Section 9-3.503 Adult Oriented Businesses. b. Sale of alcoholic beverages in conjunction with a permitted adult-oriented business shall be prohibited.
Ambulance services	P	—	—	
Animal grazing, breeding, boarding, raising, and training	—	P	—	a. Includes, but is not limited to, cattle, sheep, goats, and horses. b. Excludes hog production, commercial livestock feeding ranches, commercial dairies, commercial horse stables and equestrian centers, commercial kennels, and the commercial slaughtering, dressing, or sale of livestock, fowl, or other animals.
Animal shelters	—	C	—	
Apiaries	—	—	P	Subject to Section 9-3.510.
Automobile parts and supply stores and service uses	P	—	—	See repair uses and services.
Automobile service stations	C	—	—	
Bed and breakfasts	C	C	C	Subject to Section 9-3.509 Bed and Breakfasts.
Broadcasting studios	P	P	—	
Cabarets and nightclubs	C	—	—	
Caretaker residence (temporary)	A	A	A	Subject to Section 9-3.553 Temporary Uses and Structures.
Car wash	C	—	—	
Cemeteries	C	C	C	

Use	CM	IP	A	Notes and Exceptions
Child day care centers	C	C	C	
Church, religious, or fraternal	C	C	C	Includes synagogues, temples, mosques, and other buildings used for the purposes herein but excludes day care centers, and private and/or secondary educational facilities.
Clubs and lodges (private)	P	—	—	
Collection and recycling of paper, glass, and other materials	C	C	C	Excludes junkyards and auto salvage.
Compounding, processing, packaging, and treatment of products	P	P	—	a. Includes candy, cosmetics, pharmaceuticals, food, and beverages. b. Excludes the rendering or refining of fats and oils.
Dancing and live entertainment	C	C	—	
Drive-through facilities	C	C	—	As defined in Appendix A, contingent upon approval of a Discretionary Use Permit.
Egg production and sales and the production of chickens, poultry, pigeons, and other fowl, and the production of rabbits	—	—	P	Subject to the following requirements: 1. Any poultry, pigeon, rabbit, or other animal-raising building or enclosure shall be located a minimum of 300 feet from any existing residential building not on the premises; and 2. The slaughtering or dressing for sale of poultry, pigeons, or rabbits shall be permitted only if they are produced, raised, or fattened on the premises.
Eating and drinking establishments	P	P	—	Including brewpubs, microbreweries, distilleries, wineries and wine tasting rooms.
Educational and cultural programs	—	P	A	Shall be of a temporary nature and prior approval of a special events permit in accordance with Section 9-3.547 Special Activities.
Farmworker employee quarters	—	—	A	Up to 36 beds or up to 12 units for use by single families or households.

Use	CM	IP	A	Notes and Exceptions
				Must be of a permanent character placed in permanent locations.
Farming	—	—	P	a. Includes all types of agriculture and horticulture. b. Excludes farms operated publicly or privately for the disposal of garbage, sewage, rubbish, or offal. c. For A – The City may enter into Urban Agriculture Zone (UAIZ) contracts with property owners (see Section 9-3.558 Urban Agricultural Incentive Zone).
Financial services uses	P	—	—	Includes banks, savings and loan associations, and credit unions.
Fortunetelling	P	—	—	
Foundry casting	—	C	—	
Game machines (3 or less)	A	—	—	3 or less game machines if such machines are accessory to a permitted principal use in the district.
Game machines (more than 3)	C	—	—	
Home businesses	—	—	A	Subject to Section 9-3.523 Home Business.
Horse stables and equestrian centers (commercial)	—	—	C	Subject to Section 9-3.515 Equestrian Standards.
Hospitals	C	—	—	
Hotels	C	C	—	In accordance with provisions of Section 9-3.524
Kennels (noncommercial)	—	C	A	Subject to Section 9-3.525 Kennels.
Kennels (commercial)	—	C	C	Subject to Section 9-3.525 Kennels.
Manufacturing, assembly, testing, repair, and research on components, devices, equipment, and systems of an electrical, electronic, or electromechanical nature	P	P	—	Includes, but is not limited to: 1. Semiconductors, and similar components; 2. Computer hardware and software; 3. Metering instruments, equipment, and systems;

Use	CM	IP	A	Notes and Exceptions
				4. Audio equipment, and systems; 5. Radar, infrared, laser, and ultraviolet equipment and systems; 6. Scientific and mechanical instruments; and 7. Television and radio equipment and systems.
Manufacturing and assembly of retail and wholesale items to a finished product	P	P	—	Such items may be made from bone, cellophane, fiber, fur, glass, latex, ceramics, pottery, lead, leather, metal, paper, plastics, wood, or yarn.
Medical and dental offices	P	—	—	Medical centers and complexes allowed.
Mining oil drilling, and other resource extraction	C	C	C	Includes necessary incidental buildings and appurtenances.
Mobilehomes and modular homes on a permanent foundation system	—	—	A	Both shall be subject to state regulations governing development standards.
Mortuaries	C	—	—	
Motels	P	—	—	
Motorcycle sales and services	P	—	—	
Nonprofit medical clinics	C	C	—	
Nurseries, greenhouses, and plant storage (resale and wholesale)	P	—	P	Including greenhouses, hydroponic gardens, and similar facilities.
Offices (general)	P	—	—	Includes business, professional, real estate, travel agencies, and similar office uses.
Offices (large)	P	P	—	Includes offices which do not regularly provide services or conduct business with the general public, such as corporate offices.
Packing plants for whole agricultural products	—	—	C	Excludes food processing.
Parking lots (commercial and public)	P	P	—	
Pottery and ceramics manufacture	C	—	—	

Use	CM	IP	A	Notes and Exceptions
Produce stands (temporary)	—	—	A	a. To be used for the sales of agricultural products produced on the premises. b. Subject to the following: 1. Such stands shall not be located closer than 20 feet from any street right-of-way; 2. Such stands shall be of wood frame type construction; and 3. The accessory signs used to identify the use shall be located on or adjacent to such stands as set forth in Section 9-3.543 Signs.
Public buildings and facilities	P	P	—	a. For CAI District - Includes public utilities offices and exchanges, museums, libraries, governmental buildings, parks, bus, taxicab, and railroad stations, tourist information centers, including police and fire stations, but excludes schools and hospitals. b. For IP District - Excludes public schools, police stations, fire stations, and hospitals.
Publishing and bookbinding	P	P	—	
Radio and television towers and installations, radar installations, microwave relay stations, and cellular towers and installations (commercial)	C	C	C	Subject to Section 9-3.507 Antennas.
Recreational uses (requiring outdoor facilities)	C	—	—	a. Such as tennis clubs, provided the requirements of Sections 9-3.501 Accessory Uses and Structures and 9-3.529 Lighting Standards are met. b. Outdoor night lighting for such recreational uses, other than parking lot or security lighting, shall not be

Use	CM	IP	A	Notes and Exceptions
				permitted unless included within the conditional use permit approval. All night lighting, for any purpose, shall conform to the requirements of Section 9-3.529 Lighting Standards.
Recreation and leisure uses (not requiring outdoor facilities)	C	—	—	Includes uses such as game machine arcades, pool and billiard centers, bowling lanes, ice and roller skating rinks, theaters (excluding drive-ins), athletic clubs, and health clubs.
Recreational vehicle and automobile storage	C	—	—	
Recycling facilities	P	P	P	Subject to Section 9-3.537 Recycling Facilities. Section 9-3.537 Recycling Facilities identifies the specific allowed recycling uses.
Repair uses and activities	P	P	—	Includes vehicle repairs and boat maintenance repairs, muffler, brakes, and transmission repairs. All such activities must take place within a building and no related outside storage is allowed.
Research and development	P	P	—	Includes research and development of computer software, information systems, communication systems, transportation, geographic information systems, multimedia and video technology. Development and construction of prototypes may be associated with this use.
Residential dwelling (single-family)	—	—	A	One principal residential dwelling per lot as an accessory use to a principal use.
Retail sales of carpeting, furniture, and home appliances	C	—	—	a. The premises in question shall meet all the parking requirements set forth in Section 9-3.535 Parking for such retail sales. b. No displays of merchandise shall be visible from Interstate 5.
Schools (business, vocational, and professional schools requiring outdoor facilities)	P	—	—	a. Includes secretarial, art, dance, drama, and music schools.

Use	CM	IP	A	Notes and Exceptions
				b. Excludes swimming schools, preschools, and public and private primary and secondary schools.
Secondhand stores	C	—	—	
Service uses	P	C	—	a. Includes pest control services, linen and diaper supply, catering services, printing and reproduction shops, computer and data processing centers, plumbing services, and electrical services. b. Services shall not require extensive on-site customer access.
Storage and display (outside)	P	A	—	Subject to Section 9-3.549 Storage and Display.
Topsoil or fill dirt (processing and/or sales of)	—	—	C	
Upholstering shops	P	P	—	All such activities must take place within a building and no related outside storage is allowed.
Vehicle sales, rental, and leasing uses	P	C	—	Including automobiles, trucks, recreation vehicles, boats, and personal water craft.
Vehicle storage	C	C	—	Excludes junk yards or automobile salvage.
Veterinary offices and clinics	C	C	—	
Warehousing, storage, and transfer uses	P	P	—	Such as cold storage plants, trucking firms, and beverage distributors, provided such uses have less than 50,000 square feet of floor area.
Warehousing, storage, and transfer uses	C	C	—	Such as cold storage plants, trucking firms, and beverage distributors, containing 50,000 square feet of floor area or more.
Wholesaling of products	P	P	—	Such as electrical supplies, plumbing supplies, hospital and sickroom supplies, plate glass, and mirrors.
Yard storage for construction materials	—	C	—	

P = Principal use permitted by right

— = Not permitted

A = Accessory use permitted by right (subject to Section 9-3.501, Accessory Uses and Structures)

C = Conditional use permit required (subject to Section 9-2.317, Conditional Use Permit)

Sec. 9-3.505. Affordable housing requirements.

- (a) Purpose and intent. The purpose and intent of the affordable housing requirements in this section are to achieve the following:
 - (1) To create affordable housing requirements to facilitate the development of residential housing opportunities for households of all income levels within the City;
 - (2) To comply with state law to provide density bonuses for the creation of qualifying affordable housing ;
- (b) Local Preference. To the maximum extent permitted by state and federal law, existing San Juan Capistrano residents and individuals employed within the City shall be given preference to deed-restricted affordable units created under subsections (c) or (d) of this Section 9-3.505. This local preference shall be implemented in accordance with the following:
 - (1) Residency requirements are prohibited. An owner may not refuse to rent or sell to an applicant because they are not a current City resident.
 - (2) The local preference shall not be based on the length of time an applicant has lived or worked in the City.
 - (3) In addition to individuals that are existing residents or employed in the City, an applicant shall qualify for the local preference if they have been hired to work in the City or expect to live in the City as a result of planned employment.
 - (4) Exceptions to the local preference may be made if the affordable housing funding source explicitly prohibits local preferences.
 - (5) The local preference shall not prohibit units from being rented or sold to applicants that do not qualify for the local preference (i.e., do not reside or work in the City). If there are not any eligible applicants on the waiting list that qualify for the local preference, an owner may not hold units open because of the local preference. The next eligible household on the waiting list must be offered the unit.
 - (6) Implementation of the local preference must comply with any applicable regulatory guidance issued by the California Department of Housing and Community Development (HCD) and/or the United States Department of Housing and Urban Development (HUD).
- (c) Affordable housing inclusionary units; in-lieu fee option.
 - (1) Applicability.

(A) All residential development projects of more than four (4) units shall either include the number of inclusionary units required under subsection (c)(2) below or pay the affordable housing in-lieu fee required under Section 9-5.103. No application for a rezone, tentative map, parcel map, conditional use permit, or building permit for a residential development project shall be approved, nor shall any such residential development project be constructed, without compliance with this subsection (c).

(B) Exemptions. This subsection (c) shall not apply to the following residential projects:

- i. Reconstruction of any dwelling units that were destroyed by fire, flood, earthquake or other force majeure event.
- ii. Projects which are already the subject of a development agreement currently in effect with the City; or of a disposition agreement, owner participation agreement, or memoranda of understanding with the City, approved prior to July 1, 2026, and where such agreements or memoranda: (1) limit the application of fees in a manner which specifically precludes the fees which would otherwise be imposed by this section, or (2) provide alternative means of addressing the provisions of this subsection (c);
- iii. Single room occupancy developments;
- iv. That portion of any development project located on property owned by the State of California, the United States of America or any of its agencies, with the exception of such property not used exclusively for state or federal governmental or educational purposes;
- v. Any construction on private land which will be used for local, county, state, or federal government purposes for a period of no less than 55 years;
- vi. Relocation of existing historically significant structures to secondary locations within the City.
- vii. Density bonus units that are awarded under Density Bonus Law (Gov. Code, § 65915 et seq.)
- viii. Projects exempt by state law.

(2) Inclusionary Housing Unit Requirements.

- (A) At least ten percent (10%) of newly constructed or converted dwelling units in residential development projects must be developed, offered to and sold or rented to very low, low and moderate income households, at prices affordable to such households, as follows:
 - (i) If the residential development project consists of for-sale units, the inclusionary units shall be sold to moderate income households, as defined by Health and Safety Code section 50093.
 - (ii) If the residential development consists of rental units, fifty percent (50%) of the affordable units shall be rented to very low income households and fifty percent (50%) of the affordable units shall be rented to low income households, as defined by Health and Safety Code sections 50105 and 50079.5, respectively.
 - (B) Inclusionary housing units created under this subsection (c) shall be subject to and memorialized by an Affordable Housing Agreement with the City of San Juan Capistrano. The Affordable Housing Agreement, and any exhibits thereto, shall be supplied by the City and, among other things, require that the inclusionary housing units be subject to a recorded deed restriction that requires the units to remain affordable for at least 55 years.
 - (D) In accordance with subsection (c)(2)(A) above, inclusionary housing units shall be rented at an affordable rent or sold at an affordable housing cost, as those terms are defined and calculated in Health and Safety Code sections 50053 and 50052.5 and any implementing regulations. Except as otherwise specified in an Affordable Housing Agreement, during the 55 year affordability term, a for-sale inclusionary unit may only be resold to a moderate income household at an affordable sales price for moderate income households, as determined by City.
 - (E) When the inclusionary requirement results in a fraction, the developer shall round up to a full unit.
 - (F) All new or amended Specific Plans which create new opportunities for residential development shall include an inclusionary housing requirement of up to fifteen percent (15%), subject to approval by the City Council, which abides by all requirements of this subsection (c)(2), or pay a housing in-lieu fee, in accordance with Section 9-5.103.
- (d) Density bonus and Other State Affordable Housing Incentives program.
- (1) Purpose and Intent. The purpose of this subsection (d) is to allow density bonuses and other affordable housing incentives to qualifying projects in accordance with state law.

- (2) The density bonuses and other affordable housing incentives required by state law, including, but not limited to, Government Code section 65915 et seq., shall be available to applicants on the terms and conditions specified in state law.

(e) By-Right Standards for Housing Element Inventory Sites.

- (1) Purpose. The purpose of this subsection (e) is to implement the City's 6th Cycle (2021 – 2029) Housing Element by codifying the statutory requirements set forth in Government Code section 65583.2 that apply to development proposed on specified sites identified in the Housing Element's sites inventory. Where there is a conflict between this subsection (e) and state law (including, but not limited to, Government Code section 65583.2), state law prevails. Where there is a conflict between this subsection (e) and Title 9 of this Code, this subsection (e) prevails.

- (2) Applicability. This subsection (e) applies to development proposed on a site that is any one of the following:

(A) A vacant site that was used in the City's previous two Housing Element sites inventories (4th and 5th Cycle) to accommodate the City's Regional Housing Needs Allocation (RHNA) for lower income households.

(B) A nonvacant site that was used in the City's previous Housing Element sites inventory (5th Cycle) to accommodate the City's RHNA for lower income households.

(C) A site that was rezoned to accommodate the City's RHNA for lower income households pursuant to the 6th Cycle Housing Element.

- (3) Relationship to Other Regulations. Residential development proposed on a site listed under subsection (e)(2) above shall also comply with requirements under Title 9 of this Code, including, but not limited to, applicable standards within the underlying zoning district and objective development and design standards in accordance with Section 9-3.501 of this Code.

- (4) Requirements. Residential development proposed on a site listed under subsection (e)(2) above is subject to the following regulations:

(A) If the project is proposed on a site listed under subsection (e)(2)(C) above (i.e., rezoned to accommodate the City's RHNA for lower income households under the 6th Cycle Housing Element), all of the following apply:

i. The minimum residential density is 20 dwelling units per acre;

ii. The site must permit at least 16 units;

iii. If the site has mixed-use zoning, a 100 percent residential project is permitted and, if a mixed-use project is proposed, at least 50 percent of the floor area must be utilized for residential uses.

(B) Owner-occupied and rental multifamily residential uses are permitted as a use by right and do not require a discretionary review or approval for residential developments in which 20 percent or more of the total units are affordable to lower income households (as defined by Health and Safety Code section 50079.5). For purposes of this subsection (e)(4)(B), “use by right” has the same meaning as provided in Government Code section 65583.2(i).

(C) An applicant for a project under this subsection (e) may apply for a density bonus in accordance with Government Code Section 65915 and subsection (d) above.

(f) Single Room Occupancy Units

(1) The purpose of these regulations is to allow the development of reduced-size dwelling units, defined as single room occupancy (SRO) units, with limited parking requirements to provide additional options for affordable housing opportunities. “SRO housing” is defined as housing units that are restricted to occupancy by no more than two persons and may include a kitchen and/or a bathroom, in addition to a bed. These units are typically comprised of one or two rooms. These SRO regulations are considered to be in addition to the regulations of the underlying zoning districts where SRO development is permitted. SROs must comply with all requirements of the California Building Code and meet the current local standards for building safety.

(2) Minimum development standards.

(A) The gross area of an SRO unit may range from a minimum of 150 square feet to a maximum of 400 square feet.

(B) SRO units of 220 square feet or more are required to have a kitchen and a full bathroom.

(C) Any area that may be used for food preparation must be defined in building plans and meet the requirements of the State of California Health and Safety Code and California Building Code.

(D) All SRO units must have a closet.

- (E) Twenty-four-hour on-site management must be provided at an SRO with seven or more units and shall include a dwelling unit designated for the manager.
- (F) All SRO projects must have a management plan which shall contain management policies, maintenance plans, rental procedures, tenant rules, and security procedures.
- (G) Off-street parking must be provided at a rate of one space per two rooming units plus one space per two employees on the largest shift.
- (H) Bicycle storage for one bike per unit shall be provided.
- (I) SRO projects shall have at least 10 square feet of common usable open space per unit; however, no SRO project shall provide less than 200 square feet of common outdoor open space and 200 square feet of common indoor open space. Maintenance areas, laundry facilities, storage (including bicycle storage), and common hallways shall not be included as usable indoor common space. Landscape areas that are less than eight feet wide shall not be included as outdoor common space.
- (J) Laundry facilities shall be provided for developments with 20 or more units. Facilities shall have a minimum of two washers and two dryers and must be provided in a separate room. An additional two washers and two dryers must be provided for every additional 20 units in a development.
- (K) Common bathrooms must be located on any floor with units that do not have full bathrooms. Common bathrooms shall be either single occupant use with provisions for privacy or multi-occupant use with separate provisions for men and women. Common bathrooms shall have shower or bathtub facilities at a ratio of one for every seven units or fraction thereof. Each shared shower or bathtub facility shall be provided with an interior lockable door.
- (L) Complete common cooking facilities/kitchens must be provided if any unit within the project does not have a kitchen. One complete cooking facility/kitchen shall be provided within the project for every 20 units or portion thereof or have one kitchen on any floor where units without kitchens are located.
- (M) All other standards shall be in accordance with the standards of the base zoning under Section 9-3.301 and applicable Supplemental District regulations of 9-3.500 et. al.

Sec. 9-3.533. Nonconforming uses, lots, and structures.

- (a) Purpose and intent. Within the districts established by Section 9-3.101 Districts Established, where there exist lots, structures, or uses of land and structures which were lawful before November 17, 1975, but which are prohibited or restricted by Chapter 3 of this title, this section provides for the regulation of such nonconformities by specifying the circumstances and conditions under which they may continue to exist.
- (b) Continuation of nonconformities. Except as otherwise permitted by the provisions of Chapters 1 through 5 of this title, nonconformities may be continuously maintained provided there is no alteration or addition to any structure, nor any enlargement of area, space, or volume occupied by such nonconformity.
- (c) Time periods affecting nonconformities. Unless otherwise specifically set forth, all time periods affecting nonconformities shall begin on November 15, 2002, or on the effective date of an amendment to the provisions of Chapters 1 through 5 of this title or change in the Official Zoning Map if such amendment or change causes a nonconformity.
- (d) Repairs and maintenance.
 - (1) Ordinary repairs and maintenance work. Ordinary repairs and maintenance work may be made to a nonconformity, subject to the following provisions:
 - (A) Maintenance work shall not include structural alterations, except those required by law or those required to make the structure and use conform to the standards and use regulations of the district in which such structure and use are located.
 - (B) Ordinary repairs and the repair or replacement of nonbearing walls, fixtures, wiring, and plumbing may be made to an extent not exceeding the latest assessed valuation of the structure. In no case, however, shall the cubic content of the structure as it existed when it became subject to nonconformity be increased.
 - (2) Repairs to damages. In the event such damage or destruction exceeds twice the assessed valuation of such structure, that structure shall not be reconstructed except in conformity with all use and area regulations for new structures in the district in which such structure is located.
 - (3) Any project that will require the demolition of one or more residential dwelling units shall be subject to Section 9-3.301(d), as applicable.
 - (4) Strengthening and restoring. Nothing set forth in this section shall be deemed to prevent the strengthening or restoration to a safe condition of any structure or its

support structure, or part thereof, declared to be unsafe by any officer of the City charged with protecting the public safety upon the order of such officer.

- (e) Enlargement. A nonconformity shall not be enlarged in volume or extended or relocated beyond the area it occupies, unless its enlargement, extension, or relocation is:
 - (1) Made to conform to the regulations of the district in which it is located; and
 - (2) Conforms to the following provisions:
 - (A) Any exception permitting the enlargement, extension, or relocation shall not be construed to extend the termination date, if any, of the subject nonconformity.
 - (B) Where parking and loading requirements are the cause for nonconformity, the use shall not be intensified, nor associated structure enlarged or altered to create additional dwelling units, guest rooms, seating capacity, or floor area, unless additional parking and loading requirements are supplied and maintained to meet the parking requirements, subject to the provisions of Section 9-3.535 Parking.
- (f) Change of nonconforming uses to other uses. A nonconforming use shall not be changed to another use, except to a use permitted in the district where it is located.
- (g) Nonconforming lots and the construction of single-family dwellings. In any district in which single-family dwellings are permitted, a single family dwelling and the customary accessory structures may be erected on any lot which is only nonconforming with respect to the lot area and lot width standards. However, such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership.
- (h) Nonconforming lots in single ownership. If two (2) or more unimproved lots with continuous frontage in single ownership are of record on September 17, 1975, and if all or part of such lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of Chapters 3 and 4 of this title. No portion of such a parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements set forth in Chapters 3 and 4 of this title.
- (i) Nonconforming uses in the Specific Plan/Precise Plan (SP/PP) District. Minor modifications to nonconforming uses in areas designated Specific Plan/Precise Plan (SP/PP) and subject to a Specific or Precise Plan may be approved subject to the requirements of Section 9-3.317 Specific Plan/Precise Plan (SP/PP) District.

- (j) Nonconforming amateur radio antennas. All amateur radio antennas lawfully constructed and erected prior to the effective date of the ordinance codified in Section 9-3.507 Antennas are considered legal nonconforming and are not subject to the development standards included in Section 9-3.507 Antennas provided that a record of its size, location, height and any other information deemed necessary by the Planning Director is on file with the Department of Planning Services. In order to secure any right under Section 9-3.507 Antennas, the amateur radio antenna owner shall submit this record to the Department of Planning Services on a form or application supplied by the Department of Planning Services. The amateur radio antenna owner is responsible for providing the necessary information to the City for inclusion in the record of nonconforming antennas.
- (k) Nonconforming home business uses.
 - (1) Removal within sixty (60) days. Any existing home business use in existence prior to November 15, 2002 which is nonconforming to the regulations of Section 9-3.523 Home Business are hereby deemed to be a public nuisance and shall be removed by the occupant within an amortization period of sixty (60) days from enactment of the ordinance codified in this section.
 - (2) Extensions. The Planning Director may grant an exception to the above-stated maximum period of time for removing the home business use by granting an additional permit of time for removal however, the extension of time shall not be greater than the time necessary to amortize documented expenditures directly associated with the home business use under applicable criteria of the Internal Revenue Code. The permittee shall have the burden of presenting creditable information to support the request.
- (l) Structures and plans previously approved.
 - (1) Any structure which was approved prior to November 15, 2002, but which does not conform to any or all of the provisions of Chapters 1 through 5 of this title, may be completed and used in accordance with the provisions of Chapters 1 through 5 of this title, or any amendment thereto, provided:
 - (A) The construction or proposed use of such structure is not in violation of any other law on November 15, 2002;
 - (B) Such structure is completed in accordance with the plans and specifications previously approved as to City requirements; and
 - (C) The building permits for the structure were obtained on or before November 15, 2002, and, once issued, the building permit did not become void.
 - (2) Approved tentative maps shall remain effective until November 15, 2002, or until such time as the map shall normally expire. If a tentative map approved prior to

November 15, 2002, is considered for an extension, such extension may be granted upon a finding by the Planning Commission that the tentative map is in substantial compliance with the provisions of Chapters 3 and 4 of this title.

- (m) Removal of nonconforming uses or structures. The City may adopt abatement programs for nonconforming uses and structures that are found to cause a public nuisance. The abatement program shall identify an amortization period and process for the removal of nonconforming use or structure.
- (n) Violations. Any of the following violations shall immediately terminate the right to operate a nonconformity:
 - (1) Changing a nonconforming use to another use not permitted in the district or allowed pursuant to the provisions of subsection (f) of this section;
 - (2) Increasing or enlarging the area, space, or volume occupied by or devoted to such nonconforming use; or
 - (3) Increasing the number of personnel employed or volume of business performed so that such increase constitutes an intensification of the nonconforming use.
- (o) Notwithstanding anything to the contrary set forth in this section, the Development Services Director may, in his or her sole and absolute discretion, approve minor modifications to nonconforming uses and structures in the TC and TCE Districts.

Sec. 9-3.535. Parking. – Table 3-33

Table 3-33

Residential Parking Requirements

Land Use Type	Required Off-Street Parking	Notes and Comments
Multi-Family / Apartments – Studio and one (1) bedroom units	2.0 off-street parking spaces per dwelling unit plus visitor parking consisting of 0.5 parking space per dwelling unit	Tandem parking is permitted with Director approval of a parking management plan demonstrating no conflicts.
Multi-Family / Apartments - Two (2) bedroom units	2.5 off-street parking spaces per dwelling unit with at least 1.0 parking space per dwelling unit plus visitor parking consisting of 0.5 parking space per dwelling unit.	Tandem parking is permitted with Director approval of management parking plan demonstrating no conflicts.
Multi-Family / Apartments - Three (3) or more bedroom units	3.0 off-street parking spaces per dwelling unit with at least 1.0 space per dwelling plus visitor parking consisting of 0.8 space per dwelling unit.	Tandem parking is permitted with Director approval of parking management plan demonstrating no conflicts.
Senior apartments (age restricted)	1.0 space per unit and no visitor parking.	
Bed & breakfast (B&B)	2.0 spaces for the resident manager; and 1 space for each guest room.	See Code Section 9-3.509.
Boarding and lodging houses, student housing, dormitories, and fraternity and sorority housing	1.0 off-street parking spaces per guest rooms and 1.0 per each dwelling unit.	In dormitories, each 100 square feet of gross floor area shall be considered equivalent to 1 guest room.
Mobilehome parks	2.0 off-street parking spaces per dwelling site, at least 1 space per dwelling to be covered, 1 space may be tandem; 0.4 spaces per dwelling site for visitor parking, plus the spaces required for recreation centers, if any.	Visitor parking shall be evenly distributed throughout the park.
Single-family residences (Single-family detached dwellings, two-family	2.0 off-street parking spaces per dwelling unit in a garage; and	

Land Use Type	Required Off-Street Parking	Notes and Comments
dwelling (duplexes), and zero lot line dwellings utilizing a common wall)	0.8 spaces per dwelling unit visitor parking.	

Sec. 9-3.550. Emergency shelters, low barrier navigation centers, supportive and transitional housing facilities.

- (a) Purpose and intent. The City finds and determines that the purpose and intent of this section is to regulate emergency shelters, low barrier navigation centers, supportive housing and transitional housing in accordance with state law. If this Section 9-3.550 conflicts with state law, state law prevails. If this Section 9-3.550 conflicts with any other provision of this Code, this Section 9-3.550 prevails.
- (b) Definitions. As used in this Section, terms are defined as follows:
 - (1) “Emergency shelter” has the same meaning as provided in Appendix A, Definitions.
 - (2) “Low barrier navigation center” or “LBNC” has the same meaning as provided in Government Code section 65660(a), as may be amended.
 - (3) “Supportive housing” has the same meaning as provided in Government Code section 65582(n), as may be amended.
 - (4) “Transitional housing” has the same meaning as provided in Government Code section 65582(q), as may be amended.
 - (5) “Use by right” has the same meaning as provided in Government Code section 65583.2(i), as may be amended.
- (c) Emergency Shelters. An emergency shelter must comply with all of the following standards:
 - (1) Allowed zones. Sited in the P&I zone.
 - (2) Capacity. No more than one bed per 250 square feet of gross building space.
 - (3) Off-street parking. Subject to Government Code section 65583(a)(4)(B)(ii), off-street parking shall be supplied at a ratio of not less than one space for every employee in the largest shift. The design and location of entrances and off-street parking shall be consistent with the provisions of Section 9-3.535 Parking.
 - (4) Intake and waiting areas.
 - (A) Shall have an interior client intake area of a minimum of 250 square feet.

- (B) An exterior waiting area, if provided, shall be located onsite and outside of the following: designated pedestrian areas, designated parking areas and the public right-of-way.
 - (5) Onsite personnel requirements. Facilities must provide all of the following:
 - (A) At least one on-site property manager at all times for each 20 occupants.
 - (B) At least one attendant at all times for each 20 occupants.
 - (C) At least one security guard during all hours of operation.
 - (6) Proximity to other shelters. Pursuant to Government Code section 65583(a)(4)(B)(v), may not be established, constructed, or operated in a location that is within 300 feet of another shelter.
 - (7) Length of stay. Occupancy for an individual may not exceed six months within any 12 month period.
 - (8) Lighting. Lighting must comply with the provisions of Section 9-3.529(b)(1)(B) Lighting Standards for Enhanced Security Areas.
- (d) Low barrier navigation centers (LBNCs).
- (1) Allowed zones. As required by Government Code section 65662, LBNCs that comply with this subsection (d) are permitted as a use by right in areas zoned for mixed-use and nonresidential zones permitting multifamily uses.
 - (2) Development and operational standards.
 - (A) Each LBNC shall comply with all of the development and operational standards provided in subsections (c)(2) through (8) above that apply to emergency shelters.
 - (B) As required by Government Code section 65662, each LBNC must satisfy all of the following:
 - i. It offers services to connect people to permanent housing through a services plan that identifies services staffing.
 - ii. It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system developed

pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

- iii. It complies with Chapter 6.5 (commencing with section 8255) of Division 8 of the Welfare and Institutions Code.
- iv. It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local homeless management information system as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

(e) Transitional and supportive housing.

- (1) Transitional housing. In accordance with Government Code section 65583(c)(3), transitional housing is considered a residential use of property and is subject to those restrictions that apply to other residential dwellings of the same type in the same zone.
- (2) Supportive housing.
 - (A) Generally. In accordance with Government Code section 65583(c)(3), supportive housing is considered a residential use of property and is subject to those restrictions that apply to other residential dwellings of the same type in the same zone.
 - (B) Use by right. Supportive housing that complies with the requirements of Government Code section 65650 et seq. is considered a use by right in all zones where multifamily and mixed-uses are permitted, including nonresidential zones permitting multifamily uses. In accordance with Government Code section 65651(b)(1), a supportive housing development must comply with all objective development standards and policies that apply to other multifamily developments within the same zone.

Sec. 9-5.103. Affordable Housing in-lieu fee.

(a) Purpose and intent. The purpose and intent of this section is to achieve the following:

- (1) To create a housing fund to facilitate the development of new residential housing opportunities for low, very low, and moderate income households within the City; and
- (2) To create an affordable housing fund as an ongoing and renewable source of revenue to assist in implementing the City's adopted Housing Element; and
- (3) To preserve and maintain existing renter and ownership housing units which are affordable to very low, low, and moderate income households located within the City; and
- (4) To foster and encourage the private sector to join the City to further the goals of this Land Use Code.

(b) Affordable housing In-lieu fee description.

- (1) Timing. The affordable housing in-lieu fee shall be remitted prior to issuance of a Certificate of Occupancy for a development project, unless a negotiated schedule for payment has otherwise been approved by the City Council.
- (2) Computation of fee. The amount of the affordable housing in-lieu fee shall be computed as follows based on the product being constructed:

a. Rental Units:

$$(\text{Mean Monthly Market Rent}^{(1)} - \text{Mean Monthly Affordable Rent}^{(2)}) \times 10 \text{ years} = \text{Fee Per Unit}$$

$$\text{Fee Per Unit} - (10\% \times \text{Fee Per Unit}) = \text{Housing In-Lieu Fee Per Affordable Unit}$$

(1) The average is determined by the Orange County market rate for efficiency, one-, two-, three-, and four-bedrooms. (As annually updated by the California Department of Housing and Community Development (HCD) HCD Rent Limits using Orange County Fair Market Rent)

(2) The average is determined by the Orange County affordable rate for efficiency, one-, two-, three-, and four-bedroom. (Annually updated by HCD Rent Limits using Orange County Low Income Rent)

b. Ownership Units:

$$\text{Market Sales Price}^{(1)} - \text{Affordable Sales Price}^{(2)} = \text{Fee Per Unit}$$

$$\text{Fee Per Unit} - (10\% \times \text{Fee Per Unit}) = \text{Housing In-Lieu Fee Per Affordable Unit}$$

(1) Market sales price is the Orange County Median sale price of all Units. (Updated on the 25th of each month with the previous six month's Orange County Median Sales price data, using Zillow.com published average monthly Orange County home sales)

(2) Affordable sale price is the sales price a low-income household can pay off with a 30-year loan. Sales Price determined using: HUD's Income Rating of OC Low-Income rate (As annually updated by HCD Income Limits using Orange County 4-person household data); 30% of gross income is set aside for housing cost (California Health and Safety Code Section 50052.2(b)(3)); allowance for the average association fee (\$350) and property taxes (\$580); and loan funding with prime interest rate (Updated Monthly-Freddie Mac)

- (3) As an alternative to subsection (b)(2) above, the City Council and the developer may negotiate the amount of the affordable housing in-lieu fee during the review process for the proposed residential project.
- (4) Disbursement of fees. At an interval of not less than every five (5) years , the City Council shall adopt a Five-Year Funding Program with the following information:
 - (A) The amount of funding budgeted for loans or grants to recipients of approved programs; and
 - (B) Consistency with the City General Plan Housing Element.
- (c) Regulations pertaining to the disbursement of fees collected.
 - (1) Funds collected shall be used solely for programs and administrative support outlined by the City Council in the Housing Element to meet the housing needs of very low, low, and moderate income households. These programs shall include those providing assistance through production, acquisition, rehabilitation and preservation of affordable housing units for moderate, low, and very low income households.
 - (2) Funds may be used in any manner, through loans, grants, or indirect assistance for the production and maintenance of affordable housing.
 - (3) Funds used for the operation of supporting services such as child care or social services must meet the following criteria:
 - (A) Funds are used in connection with transitional housing or in neighborhoods where the number of units create the need for supportive services;
 - (B) The recipient demonstrates to the City that other funds are not available; or
 - (C) No more than twenty-five (25) percent of the loan, grant or assistance is designated for such services.
 - (4) Whenever funds are disbursed, the City Council shall determine the terms and conditions which shall be attached to the grant or loan.
- (d) Regulations pertaining to recipients affordable housing in-lieu funds.
 - (1) Every recipient of affordable housing in-lieu funds shall enter into a written agreement with the City which sets forth the terms and conditions of the funding (e.g., grant or loan). The agreement shall be supplied by the City and contain the following provisions:
 - (A) The amount of funds to be disbursed;

- (B) The manner in which the funds are to be used;
 - (C) The terms and conditions of the grant or loan;
 - (D) The projected maximum rent to be charged to maintain an affordable housing cost (if rental);
 - (E) A requirement for annual financial reports to be provided to the Director of Administrative Services; and
 - (F) Restrictions on the return on equity and developers fee recipients may receive, where applicable.
- (e) Financial management of in-lieu fees collected. The City's Finance Division shall maintain a separate in-lieu housing fees account which details all programs and any required related subsidiary funds. A fund report shall be prepared for City Council review on an annual basis.

Appendix A Definitions – Lot Coverage

Lot coverage: The total horizontal area of an enclosed building that extends more than three (3) feet above the surface of the ground elevation covering the lot, parcel or development site, including any structure which is more than 50% enclosed with walls more than three feet in height and with a solid roof, excluding projecting roof eaves, as shown in Figure 7, except as otherwise provided in this Land Use Code.