

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 131.0431, RELATING TO DEVELOPMENT REGULATIONS TABLE 131-04D FOR THE RS-1-2 RESIDENTIAL ZONE IN THE SOUTHEASTERN SAN DIEGO AND ENCANTO NEIGHBORHOODS COMMUNITY PLANNING AREAS.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. By San Diego Resolution R-310078 (Dec. 2, 2015), the Council adopted the Southeastern San Diego Community Plan Update and the Encanto Neighborhoods Community Plan. The Southeastern San Diego Community Plan Update and the Encanto Neighborhoods Community Plan redesignated certain land uses to Residential – Very Low (0-4 dwelling units per acre). By San Diego Ordinance O-20580 (Dec. 15, 2015), the Council approved the rezone of certain lots designated Residential – Very Low to the RS-1-2 base zone associated with the Southeastern San Diego Community Plan Update and the Encanto Neighborhoods Community Plan.

B. By Ordinance O-21164 (Jan. 8, 2020), the Council approved the 12th Update (Phase 2) to the Land Development Code and Local Coastal Program, adding Footnote 7 to Table 131-04D in Section 131.0431 of the San Diego Municipal Code (Municipal Code). Footnote 7 in Table 131-04D reduced the required minimum lot size in the RS-1-2 base zone within the Encanto Neighborhoods and Southeastern San Diego Community Planning areas from 20,000 square feet to 5,000 square feet.

C. By Ordinance O-21416 (Jan. 27, 2022), the Council approved the 2021 Land Development Code Update to the Municipal Code and Local Coastal Program, amending Footnote 7 for Table 131-04D in Municipal Code section 131.0431. The amendment to Footnote 7 for Table 131-04D applied the development regulations of the RS-1-7 base zone to sites zoned RS-1-2 in the Encanto Neighborhoods and Southeastern San Diego Community Planning areas, which includes reduced minimum lot dimensions and setback requirements consistent with a 5,000 square foot minimum lot within the Encanto Neighborhoods and Southeastern San Diego Community Planning areas. There are no sites in Southeastern San Diego zoned RS-1-2. As such, Footnote 7 for Table 131-04D only affects the Encanto Neighborhoods (also known as Chollas Valley) community.

D. With Footnote 7 for Table 131-04D, which only applies to the RS-1-2 base zone, a discretionary action to subdivide a property is still required. A required discretionary action to subdivide continued to ensure that any proposed new development does not exceed the Community Plan land use density of up to four dwelling units per acre.

E. The adoption of Footnote 7 for Table 131-04D and its subsequent amendment were a part of two Citywide Land Development Code Updates. Footnote 7 must be implemented consistent with the Encanto Neighborhoods Community Plan. However, because the provisions contained in Footnote 7 would only apply in the Encanto Neighborhoods Community Plan area, additional outreach to this affected community should have been conducted prior to its adoption. The City Planning Department recommends repealing Footnote 7 because that community specific outreach did not occur previously. Footnote 7 for Table 131-04D should also be repealed to ensure that the RS-1-2 base zone development regulations apply consistently Citywide.

F. This Ordinance repeals Footnote 7 for Table 131-04D in Municipal Code section 131.0431. The development regulations of the RS-1-2 base zone would apply to the rezoned lots adopted on December 15, 2015, associated with the Encanto Neighborhoods Community Plan Update.

G. The Housing Crisis Act of 2019 as codified by California Government Code section 66300(b)(1)(A) prohibits the reduction of intensity by changing the zoning of a parcel of a property below what was allowed under the zoning ordinance effective January 1, 2018. This action is consistent with California Government Code section 66300(b)(1)(A) because Footnote 7 for Table 131-04D was approved on January 8, 2020. With the repeal of Footnote 7 for Table 131-04D, the zoning for the impacted properties will be the same as was effective on January 1, 2018.

H. By Resolution R-313100 (June 18, 2020), the Council adopted the General Plan Housing Element which contains an inventory of adequate sites to meet the City's share of the regional housing need. The General Plan Housing Element adequate sites inventory included sites zoned RS-1-2 in the Encanto Neighborhoods Community Plan area. The sites included in the General Plan Housing Element adequate sites inventory zoned RS-1-2 assumed the development of homes allowed by the RS-1-2 base zone development regulations without the inclusion of Footnote 7 for Table 131-04D. The removal of Footnote 7 from Table 131-04D would not reduce, require, or permit the reduction of the residential density of any lot identified in the General Plan Housing Element adequate sites inventory below the share of the regional housing need.

I. The Office of the City Attorney has drafted this Ordinance based on the information provided by City staff (including information provided by affected third parties and verified by City staff), with the understanding that this information is true, and accurate.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 13, Article 1, Division 4 of the San Diego Municipal Code is amended by amending section 131.0431, to read as follows:

**§131.0431 Development Regulations Table for Residential Zones**

The following development regulations apply in the residential zones as shown in Tables 131-04D, 131-04E, 131-04F, and 131-04G.

(a) RS Zones

**Table 131-04D**

**Development Regulations for RS Zones**

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones						
	1st & 2nd >>	RS-						
	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5	6	7
<b>Max permitted density</b> (DU per lot)	[No change in text.]							
<b>Min lot area</b> (sf)	40,000	20,000	15,000	10,000	8,000	6,000	5,000	
<b>Min lot dimensions</b> , Lot width (ft) through <b>Dwelling Unit Protection Regulations</b> [See Chapter 14, Article 3, Division 12] [No change in text.]	[No change in text.]							

**Footnotes for Table 131-04D**

<sup>1</sup> through <sup>6</sup> [No change in text.]

(b) through (d) [No change in text.]

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. Ordinances O-21618 (Mar. 7, 2023) and O-21836 (July 22, 2024) were considered by the Council and may amend San Diego Municipal Code sections also amended by this Ordinance. Ordinances O-21618 and O-21836 also require California Coastal Commission certification prior to becoming effective in the Coastal Overlay Zone. The California Coastal Commission may propose modifications to San Diego Municipal Code sections also amended by this Ordinance. The City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text upon the final passage of the Ordinances, without further action by the Council, pursuant to San Diego Charter section 275.

Section 4. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage, except that provisions of this Ordinance which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect inside the Coastal Overlay Zone until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE:** ~~Struck Out~~  
**NEW LANGUAGE:** Double Underline

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<b>Max permitted density</b> (DU per lot)	[No change in text.]							
<b>Min lot area</b> (sf)	40,000	20,000 (7)	15,000	10,000	8,000	6,000	5,000	
<b>Min lot dimensions</b> , Lot width (ft) through <b>Dwelling Unit Protection Regulations</b> [See Chapter 14, Article 3, Division 12] [No change in text.]	[No change in text.]							

**Footnotes for Table 131-04D**

<sup>1</sup> through <sup>6</sup> [No change in text.]

<sup>7</sup> ~~In the Encanto and Southeastern San Diego Community Planning areas, the *lot* size shall be a minimum of 5,000 square feet, and all *development* regulations of the RS 1-7 zone shall apply to subdivisions.~~

(b) through (d) [No change in text.]

DRAFT



November 20, 2024

Honorable Todd Gloria, Mayor  
City of San Diego  
202 C Street  
San Diego, CA 92101

**RE: REQUEST FOR EXECUTIVE ORDER REGARDING FOOTNOTE 7 IN  
TABLE 131-04D OF SAN DIEGO MUNICIPAL CODE**

On September 30, 2024, the Community Planners Committee (CPC) sent a letter urging the removal of Footnote 7 from Table 131-04D in the San Diego Municipal Code (§131.0443, Chapter 13, Article 1, Division 4) **and** the halting of all projects reliant on it. Similarly, on November 1, 2024, the Chollas Valley Community Planning Group (CVCPG) sent a letter echoing these calls. CPC and CVCPG have submitted that Footnote 7 conflicts with several fundamental legal protections and policies, including:

- **The Equal Protection Clause of the United States Constitution**
- **The Equal Protection Clause of the California Constitution**
- **Title VIII of the Civil Rights Act of 1968 (Fair Housing Act)**
- **California Assembly Bill 686 (Affirmatively Furthering Fair Housing)**

Additionally, CVCPG submits that the processes outlined in the San Diego Municipal Code to ensure Constitutional Due Process in rezoning actions were not followed.

These laws and policies collectively mandate and facilitate the elimination of racial bias in housing practices, the dismantling of segregation, and the promotion of equitable access to housing opportunities. Footnote 7 perpetuates racial and economic disparities, targeting historically underserved communities in Chollas Valley and Southeastern San Diego.

During the CVCPG meeting on November 18, 2024, City Planning Director Heidi Vonblum presented a request for CVCPG to recommend a process for the removal of Footnote 7, beginning with consideration by the Planning Commission in December 2024. However, CVCPG declined to endorse this process after Ms. Vonblum clarified that current projects relying on Footnote 7 would not be halted.



To ensure compliance with these laws and uphold the principles of justice and equity, CVCPG unanimously approved an alternative recommendation that urges you to issue an executive order that:

1. **No city official, department, or subdivision of the city administration approve any projects reliant on Footnote 7—whether past, present, or future.**
2. **Footnote 7 is deemed invalid and without effect.**

We respectfully request that you take immediate action to address this matter and demonstrate your commitment to ensuring justice, equity, and compliance with federal and state laws. We look forward to your written response by 14 calendar days from the date of this letter.

Andrea Hetheru, Chair  
Chollas Valley Community Planning Group



Vinetia Jones, Correspondence Secretary  
Chollas Valley Community Planning Group



Chollas Valley Community Planning Group (CVCPG) Meeting, November 18, 2024:  
Vote of 13-0 in support of this letter

Attachments:

- CPC Letter dated September 30, 2024
- CVCPG Letter dated November 1, 2024



THE CITY OF SAN DIEGO

## MEMORANDUM

**DATE:** November 25, 2024

**TO:** Liz Saidkhanian, Principal Planner, City Planning Department

**FROM:** Rebecca Malone, AICP, Program Manager, City Planning Department

**SUBJECT:** CEQA Guidelines Section 15162 Evaluation – San Diego Municipal Code Amendment to Section 131.0431 Development Regulations Table 131-04D related to RS-1-2 Zones in the Encanto Neighborhoods and Southeastern San Diego Community Planning Areas

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The Environmental Review Section of the City Planning Department has completed a California Environmental Quality Act (CEQA) Guidelines Section 15162 consistency evaluation in compliance with Public Resources Code Section 21166 for an amendment to San Diego Municipal Code Amendment to Section 131.0431 Development Regulations Table 131-04D related to RS-1-2 Zones in the Encanto Neighborhoods and Southeastern San Diego Community Planning Areas.

### **Previously Certified CEQA Document**

This evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require preparation of a subsequent environmental document. The City Planning Department has determined that the adoption of an amendment to the San Diego Municipal Code to remove Footnote 7 from Table 131.04D would not result in new significant impacts over and above those disclosed in the previously certified Final Program Environmental Impact Report (PEIR) for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates (SCH No. 20151006), certified by the San Diego City Council on December 2, 2015 (Resolution R-31077).

A PEIR is defined in Section 15168 of the CEQA Guidelines. A PEIR is prepared for a series of actions that are characterized as one large project through reasons of geography; as logical parts in the chain of contemplated actions; in connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or where individual activities will occur under the same regulatory process and having generally similar environmental impacts that can be mitigated in similar ways. A PEIR was appropriate because the Final PEIR for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates analyzes the environmental impacts associated with the comprehensive policy

framework for growth and development in the Southeastern San Diego and Encanto Neighborhoods Community Plan areas.

In accordance with CEQA Guidelines Section 15168, a PEIR may serve as the Environmental Impact Report (EIR) for subsequent activities or implementing actions, provided it contemplates and adequately analyzes the potential environmental impacts of those subsequent projects. If, in examining future actions for development within the project areas, the City finds no new effects could occur or no new mitigation measures would be required other than those analyzed and/or required in this PEIR, the City can approve the activity as being within the scope covered by this PEIR and no new environmental documentation would be required.

### **Background and Scope of the Proposed Action**

The proposed amendment would remove a footnote that reduced the minimum lot size for the RS-1-2 zones from 20,000 square feet to 5,000 square feet in the Encanto Neighborhoods and Southeastern San Diego community planning areas. This footnote only applied in the Southeastern San Diego and Encanto Neighborhoods communities and removing the footnote ensures consistent application of development regulations Citywide. The purpose of the Southeastern San Diego and Encanto Neighborhoods Community Plans is to provide a comprehensive policy framework for growth and development in the plan areas that is consistent with the General Plan City of Villages Strategy and the Climate Action Plan. Footnote 7 in Table 131.04D substantially decreases the minimum lot size for the RS-1-2 zone in the Southeastern San Diego and Encanto Neighborhoods community planning areas and conflicts with the buildout assumptions made in the Final PEIR that were based on the proposed land use designations within the two community planning areas. Removing the footnote would rectify this conflict. Environmental analysis of the land use designations contained within in the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates was included in the Final PEIR for the plan updates, and thus, pursuant to CEQA Guidelines Section 15168(c)(2), no additional environmental document is required.

### **CEQA Guidelines Section 15162 Criteria**

When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, based on substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

None of the three criteria listed above has occurred, therefore the Environmental Review Section of the City Planning Department determined there is no need to prepare subsequent or supplemental environmental documents for the proposed amendment to the San Diego Municipal Code.

### **CEQA Guidelines Section 15162 Consistency Evaluation**

The proposed amendment ensures consistent application of development regulations Citywide by removing a footnote from the San Diego Municipal Code that reduced the minimum lot size for the RS-1-2 zones from 20,000 square feet to 5,000 square feet in the Encanto Neighborhoods and Southeastern San Diego Community Planning Areas. In the Southeastern San Diego Community Plan, no areas are zoned RS-1-2, so this provision of Table 131.04D would only apply in areas of the Encanto Neighborhoods community planning area that are zoned RS-1-2. A minimum lot size of 20,000 square feet translates to approximately two homes per acre, while a minimum lot size of 5,000 square feet translates to approximately nine homes per acre.

The assumptions for buildout used in the Final PEIR for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates were based on the land use designations in each community plan update. The areas that were zoned RS-1-2 have a community plan land use designation of Residential Very Low, which allows for zero to four homes per acre. Reducing the minimum lot size to 5,000 square feet would allow for over four homes per acre and would be inconsistent with the buildout assumptions in the Final PEIR. Removing the footnote would correct this inconsistency, and is, thus, consistent with the Final PEIR.

In conclusion, the footnote that reduced the minimum lot size for the RS-1-2 zones from 20,000 square feet to 5,000 square feet in the Encanto Neighborhoods and Southeastern San Diego Community Planning Areas was inconsistent with the Final PEIR for the Southeastern San Diego and Encanto Neighborhoods Community Plan Updates. The proposed amendment would rectify this inconsistency by removing Footnote 7 from Table 131.04D. The adoption of the proposed amendment would not result in new significant environmental effects or substantially increase the severity of significant effects beyond those identified in the Final PEIR.



Rebecca Malone, AICP, Program Manager  
City Planning Department

RM: rm