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## **Article 11. Mixed-Use Overlay District (MUOD)**

### **13-83.50. Purpose**

### **13-83.51. Definitions**

### **13-83.52. Mixed-use development types**

### **13-83.53. Application review procedures in mixed-use overlay district**

### **13-83.54. Mixed-use development standards**

### **13-83.55. Mixed-use compatibility standards**

### **13-83.56. Phase mixed-use developments**

### **13-83.57. Harbor Mixed-Use Overlay**

### **13-83.58. Properties identified in 2021-2029 Housing Element**

(a) **Purpose.**

- (1) The purpose of this Section is to implement the City's Housing Element by establishing zoning provisions for sites identified in the Housing Element Sites Inventory to accommodate the City's lower-, moderate-, and above-moderate-income Regional Housing Needs Allocation (RHNA) consistent with California Gov. Code §65583 and 65583.2 subdivisions (c), (h) and (i).

(b) **Applicability.**

- (1) The provisions of this Section shall apply to all parcels identified in the City's adopted 2021–2029 Housing Element Sites Inventory to accommodate the City's RHNA.
- (2) **Previously Identified Sites.** The provisions of this Section shall also apply to any non-vacant Housing Element Site that was identified in a prior Housing Element and any vacant Housing Element Site that was identified in two or more consecutive prior Housing Elements, consistent with Government Code § 65583.2(c). Such sites shall be subject to the minimum density and by-right approval standards established in this Section. Such sites are listed in the adopted Housing Element.
- (3) **Exemption.** The provisions of this Section shall not apply within the boundaries of the Fairview Development Center Specific Plan.

(c) **Severability and State Law Consistency.**

- (1) This Section is intended to be consistent with, and shall be interpreted and applied to comply with, all applicable requirements of State housing law, including Government Code § 65915(c)(3), 65583 and 65583.2 as those provisions may be amended from time to time, and any successor statutes. If any provision of this Section conflicts with State law, the applicable state law shall control.
- (2) If any provision of this Section, or its application to any person or circumstance, is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application. The City Council declares that it would have adopted this Section and each provision, section, sentence, clause, and phrase thereof, irrespective of the fact that any one or more provisions may be declared invalid or unenforceable.

(d) **Definitions.**

- (1) **“Housing Element Site”** means any site identified in the adopted Housing Element Sites Inventory to accommodate the City’s Regional Housing Needs Allocation (RHNA).
- (2) **“Lower-Income Household”** has the same meaning as defined in California Health and Safety Code Section 50079.5.
- (3) **“Lower-Income Housing Element Site”** means any Housing Element Site identified in the Housing Element that accommodates any portion of the City’s lower-income Regional Housing Needs Allocation (RHNA) and subject to the requirements of Gov. Code § 65583.2 (h) and (i).
- (4) **“Use by Right”** has the same meaning as in Government Code § 65583.2(i) and requires ministerial approval for multifamily housing developments in which at least 20 percent of the total number of units are affordable to lower-income households. “Use by Right” means that the review of an owner-occupied or renter-occupied multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.
- (5) **“Prior Housing Element Site”** means any non-vacant Housing Element Site that was identified in the prior Housing Element and any vacant Housing Element Site that was identified in two or more consecutive prior Housing Elements. Such sites are listed in the adopted Housing Element.
- (6) **“Protected Unit”** means any unit that, within the past five years, was occupied by a lower-income household regardless of whether the unit was deed-restricted or that was subject to an affordability covenant or rent control.

(e) **Supersession of Overlay.**

(1) **For Lower-Income Housing Element Sites:**

- i. **Supersession of Other Zoning Provisions.** Projects on Lower-Income Housing Element Sites shall be governed by this Section, and the provisions in this Section shall supersede and prevail over any conflicting provisions of the underlying base zone and all other applicable zoning provisions, such as other urban plans, overlays, and specific plans, and the provisions of this Article that apply to non-Lower-Income Housing Element sites.
- ii. **Minimum Residential Floor Area.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential floor area requirements established in **Subsection (e)(2).**
- iii. **Ministerial Review and Approval.** Projects on Lower-Income Housing Element Sites shall be a Use by Right pursuant to **Subsection (g)(1).**
- iv. **Minimum Residential Density.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential density requirements established in **Subsection (h)(1)(ii) and (h)(1)(iii).**

(f) **Permitted Uses.**

- (1) **Multi-Family Dwellings.** Multi-family dwellings shall be permitted on all Housing Element Sites subject to the requirements of this Section.
- (2) **Mixed-Use on Lower-Income Housing Element Sites.** Mixed-use projects shall be permitted on Lower-Income Housing Element Sites so long as at least 50 percent of total floor area is provided as residential uses, consistent with Gov. Code §65583.2(h)(1)(B).
- (3) **Multi-Family Dwellings on Lower-Income Housing Element Sites.** Multi-family dwellings consisting of 100 percent residential uses shall be permitted on Lower-Income Housing Element Sites, consistent with Gov. Code §65583.2(h)(1)(B).

(g) **Review and Approvals Procedures.**

- (1) **Use by Right.** A project on a Lower-Income Housing Element Site that provides at least 20 percent of the total dwelling units affordable to Lower-Income Households shall be processed as a Use by Right, consistent with Gov. Code §65583.2(h) and (i). Such projects shall be subject only to ministerial review to verify compliance with all applicable objective design and development standards. A project that does not qualify as a Use-by-Right shall be processed in accordance with CMMC Title 13, Chapter III (Planning Applications).
- (2) **Subdivision.** Any subdivision of a Lower Income Housing Element Site shall comply with all applicable provisions of CMMC Title 13, Chapter XI (Subdivisions) and the Subdivision Map Act.

(h) **Development Standards.**

(1) **Density Standards**

- i. **Maximum Densities.** Maximum residential densities shall be permitted as specified in the Housing Element Sites Inventory.
- ii. **Minimum Site Capacity for Lower-Income Housing Element Sites.** If the identified maximum density of a Lower-Income Housing Element Site does not allow at least 16 dwelling units on site, then the maximum density identified shall be waived, and the maximum number of dwelling units permitted shall be 16 dwelling units on site consistent with Gov. Code §65583.2 subdivision (h). The Lower-Income Housing Element Site shall be subject to the applicable development standards of **Table 13-83.58-B** in accordance with the maximum density identified in the Housing Element Sites Inventory as described in Section (h)(1)(i).
- iii. **Minimum Densities for Lower-Income Housing Element Sites.** A project proposed on a Lower Income Housing Element Site shall meet a minimum density requirement of 20 units per acre, inclusive of Accessory Dwelling Units, consistent with Gov. Code §65583.2 subdivision (h).

(2) **Off-Street Parking Standards**

- i. Minimum off-street parking requirements for projects on Housing Element sites are provided in **Table 13-83.58-A. Minimum Off-Street Parking Requirements.**

**Table 13-83.58-A. Minimum Off-Street Parking Requirements**

Dwelling Unit Type	Minimum Off-Street Parking Requirement	Minimum Off-Street Guest Parking Requirement
Studio or 1-bedroom unit	1 space per unit	0.25 space per unit
2 or more bedrooms per unit	2 spaces per unit	0.25 space per unit

(3) **Development Standards by Maximum Density**

- i. Minimum and maximum requirements for building height, commercial intensity, setbacks, lot coverage, and open space are provided by maximum density category in **Table 13-83.58-B. Development Standards by Maximum Density.**

**Table 13-83.58-B. Development Standards by Maximum Density. (to be refined)**

Minimum Density <sup>1</sup>	Maximum Density <sup>2</sup>	Maximum Building Height	Maximum Commercial Intensity (FAR)	Minimum Setbacks (Front/Side/Rear)	Maximum Lot Coverage	Minimum Open Space
20 du/ac	40 du/ac	48 ft.	Per underlying General Plan Land Use	10 ft./5 ft./10 ft.	60%	100 s.f./unit
	50 du/ac	60 ft.		10 ft./5 ft./10 ft.	60%	
	60 du/ac	72 ft.		8 ft./5 ft./10 ft.	60%	
	90 du/ac	108 ft.		5 ft./5 ft./5 ft.	70%	

1 Based on the 2021-2029 adopted Housing Element Sites Inventory (Table B-6)

2 Only applicable to Lower-Income Housing Element Sites and inclusive of Accessory Dwelling Units.

(4) **Objective Design Standards forthcoming.**

- i. The City intends to prepare and adopt design standards to further guide the physical form and character of development on the rezoned sites. Until such standards are adopted, projects shall be subject only to the objective development standards contained in this Section. Upon adoption, the objective design standards shall apply to all projects subject to this Section and shall serve as the sole design criteria for ministerial review, consistent with Gov. Code §65583.2 and 65589.5.

(i) **Replacement of Protected Units.**

- (1) **Demolition or Conversion of Protected Units.** Any project that involves the demolition or conversion of Protected Units, or that is located on a site where Protected Units were demolished or converted within the previous five years, shall comply with all applicable replacement housing, tenant protection, and right-of-return requirements under State Density Bonus Law, including Government Code § 65915(c)(3), and any successor statutes.