

Article 11. Mixed-Use Overlay District (MUOD)

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(a) Purpose.

- (1) The purpose of this Section is to implement the City's currently adopted 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 Government Code sections 65583 and 65583.2, Subsections (c), (h) and (i).

(b) Applicability.

- (1) The provisions of this Section shall apply to all sites identified in the City's currently adopted Housing Element Sites Inventory to accommodate the City's RHNA, shown in the Housing Element as Table B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA or any future adopted 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 Section 65583.2 Subsection (c). Such sites shall be subject to the minimum density and by-right approval standards established in this Section. Such sites are identified in the City's currently adopted Housing Element Sites Inventory, shown as Table

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B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA or any future adopted Housing Element Sites Inventory to accommodate the City's RHNA.

- (3) **Exception.** The provisions of this Section shall not apply to residential projects, or mixed-use projects, or other projects having residential units located within the boundaries of the Fairview Developmental Center Specific Plan or any of the following properties identified in Table B-6 of the Housing Element by address or APN:

- 610 W. 18th St. (HE Site 96)
- 3390 Harbor Blvd. (HE Site 134)
- 3390 Harbor Blvd. (HE Site 136)
- 3315 Fairview Rd. (HE Site 137)
- 1201 S. Coast Dr. (HE Site 138)
- 3400 Bristol St. (HE Site 139)
- 685 Sunflower Ave. (HE Site 140)
- 3410 Bristol St. (HE Site 141)
- 3333 Bristol St. (HE Site 145)
- APN: 412-491-11 (HE Site 146)
- 3333 Bristol St. (HE Site 147)
- 2180 Harbor Blvd. (HE Site 194)
- 2180 Harbor Blvd. (HE Site 195)
- APN: 140-041-83 (HE Site 198)
- 3333 Susan St. (HE Site 196)
- 1590 Adams Ave. (HE Site 203)
- 1590 Adams Ave. (HE Site 204)
- 3420 Bristol St. (HE Site 205)

(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 Sections 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 Section 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 currently adopted Housing Element Sites Inventory to accommodate the City's (RHNA), shown in the Housing Element as Table B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA.

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- (2) **“Lower-Income Household”** has the same meaning as defined in Health and Safety Code Section 50079.5.
 - (3) **“Lower-Income Housing Element Site”** means any Housing Element Site identified in the currently adopted Housing Element that accommodates any portion of the City’s lower-income RHNA and subject to the requirements of Government Code Section 65583.2 (h) and (i), shown in the Housing Element as Table B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA.
 - (4) **“Use by Right”** has the same meaning as in Government Code Section 65583.2 Subsection (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 identified in the City’s currently adopted Housing Element Sites Inventory, shown as Table B-6: Sites to Accommodate Costa Mesa 2021-2029 RHNA.
 - (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:**
 - **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, including, but not limited to, minimum residential floor area, minimum residential capacities and densities, unit caps, trip budgets (if applicable), ministerial review and approval requirements, and permitted uses, 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. Notwithstanding the foregoing, to the extent an applicable Specific Plan allows for more permissive standards or greater heights, projects on Lower-Income Housing Element Sites may utilize such standards or heights.

- **Ministerial Review and Approval.** Projects on Lower-Income Housing Element Sites shall be a Use by Right pursuant to Subsection (f)(1).
- **Minimum Residential Floor Area.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential floor area requirements established in Subsection (g)(3).
- **Minimum Residential Site Capacity and Density.** Projects on Lower-Income Housing Element Sites shall satisfy the minimum residential capacity and density requirements established in Subsection (h)(1)(ii) and (h)(1)(iii).

(f) **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 Government Code Section 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 in accordance with a Streamlined Development Review process per CMMC Title 13, Chapter III (Planning Applications). A project that does not qualify as a Use by Right shall be processed in accordance with a Development Review process per 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.

(g) **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) **Non-Residential Uses.** Those non-residential uses permitted in Commercial Zones in accordance with CMMC Title 13, Chapter IV (Citywide Land Use Matrix) shall be permitted as part of mixed-use projects on all Housing Element Sites.
- (3) **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 Government Code Section 65583.2, Subsection (h)(1)(B).
- (4) **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 Government Code Section 65583.2, Subsection (h)(1)(B).

(h) **Development Standards**

(1) **Density Standards**

- **Maximum Densities.** Maximum residential densities shall be permitted as specified in the Housing Element Sites Inventory.
- **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 Government Code Section 65583.2 Subsection (h).
- **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 Government Code Section 65583.2, Subsection (h).

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

- **Residential Uses.** Minimum off-street parking requirements for multi-family dwellings on Housing Element sites are provided in Table 13-83.58-A. Minimum Off-Street Parking Requirements.
- **Non-Residential Uses.** Minimum off-street parking requirements for those permitted non-residential uses on Housing Element sites shall be subject to CMMC Title 13, Chapter VI (Off-Street Parking Standards).

Table 13-83.58-A. Off-Street Parking Standards for Residential Uses

TABLE 13-83.58-A. OFF-STREET PARKING STANDARDS		
Dwelling Unit Type	Minimum Off-Street Parking Requirement	Minimum Off-Street Guest Parking Requirement
Studio or 1-bedroom unit	<u>No minimum</u>	0.25 space per unit
2 or more bedrooms per unit	<u>No minimum</u>	0.25 space per unit

(3) **Development Standards**

- Minimum and maximum requirements for building height, non-residential intensity, setbacks, lot coverage, and open space are provided in Table 13-83.58-B. Development Standards.

Table 13-83.58-B. Development Standards.

TABLE 13-83.58-B. DEVELOPMENT STANDARDS			
RESIDENTIAL DENSITY AND BUILDING HEIGHT STANDARDS			ADDITIONAL PROVISIONS
Min. Residential Density ¹	Max. Residential Density ²	Max. Building Height	
20 du/ac	40 du/ac	60 ft.	
	50 du/ac		
	60 du/ac	72 ft.	
	90 du/ac	108 ft.	Or an applicable Specific Plan, whichever is higher
NON-RESIDENTIAL INTENSITY STANDARDS			ADDITIONAL PROVISIONS
Min. FAR	None		
Max. FAR	1.0		
SETBACK STANDARDS³			ADDITIONAL PROVISIONS
Front or side abutting a public street		Min. 10 ft. and max. 20 ft.	
Side or rear abutting alley		0 ft.	
Side or rear abutting:			
• Residential zone		20 ft.	
• Industrial use			
Side or rear abutting bluff crest		10 ft.	Section 13-34 (Bluff-Top Development) of Chapter V of Title 13 of the Costa Mesa Municipal Code
LOT STANDARDS			ADDITIONAL PROVISIONS
Min. lot size	None		
Max. lot coverage	90%		
OPEN SPACE STANDARDS			ADDITIONAL PROVISIONS
Usable common residential open space ⁴	Total area equivalent to min. 30% of lot		Or as provided in an applicable Specific Plan
Usable private open space ⁵	Min. 100 sq. ft./unit provided on the ground floor for dwelling units located on the ground floor, and min. 50 sq. ft./unit provided for dwelling units located above the ground floor		Or as provided in an applicable Specific Plan

Table 13-83.58-B. Development Standards.

TABLE 13-83.58-B. DEVELOPMENT STANDARDS	
RESIDENTIAL DENSITY AND BUILDING HEIGHT STANDARDS	ADDITIONAL PROVISIONS
Publicly accessible open space	Total area equivalent to min. 5% of commercial gross floor area for developments with a commercial gross floor area greater than 100,000 sq. ft.

- 1 Based on the currently adopted Housing Element Sites Inventory.
- 2 Only applicable to Lower-Income Housing Element Sites and inclusive of Accessory Dwelling Units.
- 3 Minimum setbacks shall apply to all portions of a building or structure. Maximum setbacks along public streets shall only apply to a building or structure’s ground floor, with exceptions for driveways, walkways, and open space.
- 4 Up to 50 percent of the required usable common residential open space may be substituted by publicly accessible open space.
- 5 Up to 50 percent of the required usable private open space may be substituted by usable common residential and/or publicly accessible open space.

(4) Objective Design Standards forthcoming.

- 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 Government Code Sections 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 Section 65915, Subsection (c)(3), and any successor statutes.