

## 13.B.10 HOUSE NATIONAL CITY

# Gates Planning Strategies

## M E M O R A N D U M

**DATE:** 11/30/2022

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**SUBJECT:** House National City Program: Draft Regulations

The following memorandum provides details for the draft House National City Program regulations. The following sections are included in the draft regulations for consideration:

- Purpose, Intent, and Definitions;
- Application of House National City Regulations;
- Required Replacement of Existing Affordable Units;
- Tenant Benefits, Rights, and Obligations;
- Incentives in Exchange for Transit Priority Area Affordable Housing;
- Required Provision of Affordable Dwelling Units;
- Supplemental Development Regulations
- Proposed Glossary Terms

### Chapter 18.49

#### FLOOR AREA RATIO BONUS REGULATIONS

**Sections:**

**18.49.010 Purpose.**

**18.49.020 Definitions.**

**18.49.030 Application of House National City Regulations.**

**18.49.040 Required Replacement of Existing Affordable Units.**

**18.49.050 Tenant Benefits, Rights and Obligations.**

**18.49.060 Incentives in Exchange for Transit Priority Area Affordable Housing.**

**18.49.070 Required Provision of Affordable Dwelling Units.**

**18.49.080 Supplemental Development Regulations.**

**18.49.10 Purpose.**

- A. The purpose of these regulations is to provide a floor area ratio-based density bonus incentive program for development within areas served by transit that provides housing for very low-income or low-income households and other community benefits. These regulations are intended to materially assist in providing adequate housing for the community, to provide a balance of housing opportunities within the City of National City with an emphasis on housing near transit, and to provide community benefits that assist

with uplifting the quality of life for residents and reducing the impacts of gentrification and tenant displacement. For purposes of this opt-in program, two floor area ratio (FAR) tiers (Tier 1 and Tier 2, as described below) would apply and would supersede the dwelling unit per acre maximums allowed by the base zones. The following base zones are included as part of this program: MCR-1; MCR-2; MXC-1; MXC-2; MXD-1; MXD-2; RM-1; RM-2; RM-3; MXT. These regulations do not implement California Government Code Section 65915 (State Density Bonus Law), which is implemented through Chapter 18.48 (Density Bonus and Affordable Housing Incentives).

**18.49.020 Definitions.**

- A. For purposes of this Division, the following definitions shall apply:
  - 1. FAR Tier 1 means any premises where any portion of the premises is outside the Downtown Specific Plan area.
  - 2. FAR Tier 2 means any premises located on Plaza Bonita Road, within the Hospital District, and along Sweetwater Road/East 30th Street, as well as the area along 4th Avenue, located south of SR-54, which is zoned MXC-2.

**18.49.030 Application of House National City Regulations.**

- A. At the request of the applicant, the regulations in this Division shall apply to any development within the areas defined as FAR Tier 1 or 2. Parcels shall be zoned for twenty dwelling units per acre or higher. A land use designation that is residential or mixed-use or a residential or mixed-use overlay zone shall be required. Furthermore, all of the following requirements shall be met in order to utilize the House National City Program provisions:
  - 1. The development includes dwelling units affordable to very low-income or low-income households, in accordance with Municipal Code Section 18.48.020 and the following criteria:
    - (a) Within the categories of very low-income or low-income households, affordable dwelling units may be further targeted or restricted for senior citizens, as defined in California Civil Code Sections 51.3 and 51.11.
    - (b) Within the very low-income category, affordable dwelling units may be further targeted or restricted for transitional foster youth, as defined in Section 66025 of the California Education Code; disabled veterans as defined in Section 18541 of the California Government Code; or homeless persons as defined in the McKinney-Vento Homeless Assistance Act.
    - (c) A portion of the total dwelling units in the development shall be reserved for very low-income or low-income households, in accordance with Municipal Code Section 18.48.020.
  - 2. The dwelling units within the development shall not be used for a rental term of less

than 30 consecutive days.

3. Projects will be required to hold a minimum of one publicly-noticed community workshop to solicit input on the proposed development.

B. The regulations in this Division shall not apply to the following types of development:

1. Development that proposes to concurrently utilize the density bonus provided in Chapter 18.48 (Affordable Housing Regulations). Existing development that was constructed in accordance with the Affordable Housing Regulations and an applicant proposes to construct additional dwelling units through a new development application may utilize this Division to add gross floor area and density if the existing development was constructed using the maximum density bonus available based on the affordability level of the development.
2. Development that includes visitor accommodations, except a single room occupancy (SRO) hotel.

C. The regulations in this Division may be utilized to add gross floor area (GFA) to an existing development through the construction of additional dwelling units. The additional gross floor area allowed shall be determined as follows:

1. The additional GFA is determined by multiplying the remaining lot area by the applicable FAR. The remaining lot area is the difference between the lot coverage of the existing development and the lot area.
2. The minimum number of dwelling units is determined by multiplying the maximum number of dwelling units that could be constructed on the remaining lot area by 0.80.
  - (a) For this calculation, the maximum number of pre-density bonus dwelling units that could be constructed on the remaining lot area is calculated by dividing the remaining lot area by the maximum permitted density under the base zone.
  - (b) If the number calculated for the minimum number of dwelling units exceeds a whole number by more than 0.50, the minimum number of dwelling units shall be rounded up to the next whole number.

D. The regulations in this Division may be utilized to add GFA for residential development to an existing non-residential development through the conversion of existing non-residential space to permanent rental or for-sale dwelling units.

E. The required number of affordable dwelling units shall be calculated in accordance with Section 18.49.070. To calculate the required number of affordable dwelling units, all density calculations resulting in fractional units shall be rounded up to the next whole

number. Existing covenant-restricted affordable dwelling units shall not be counted towards the affordable housing requirement in this Division.

- F. The regulations in this Division shall not supersede the regulations of any other Municipal Code Section unless specified.

**18.49.040 Required Replacement of Existing Affordable Units.**

- A. An applicant is ineligible for any incentive under this Division if the premises on which the development is proposed contains, or during the seven years preceding the application, contained, rental dwelling units that have had the rent-restricted by law or covenant to persons and families of low income or very low income, or have been occupied by persons and families of low income or very low income unless the proposed development replaces the affordable dwelling units, and either:
  - 1. Provides affordable dwelling units at the percentages set forth in Section 18.48.020 (inclusive of the replacement dwelling units), or
  - 2. Provides all of the dwelling units in the development as affordable to low-income or very low-income households, excluding any manager's unit(s).
- B. The number and type of required replacement affordable dwelling units shall be determined as follows:
  - 1. The development shall replace all existing or demolished protected dwelling units on the premises.
  - 2. The protected dwelling units shall be replaced as follows:
    - a. For a development containing any occupied protected dwelling units, the development must:
      - (a) Contain at least the same number of replacement protected dwelling units, of equivalent size and bedrooms, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied protected dwelling units.
      - (b) For unoccupied protected dwelling units in the development, the replacement protected dwelling units shall be made affordable to and occupied by persons and families in the same or lower income category as the last household in occupancy.
      - (c) If the income category of the last household is unknown, it is presumed that the protected dwelling units were occupied by very low-income and low-income renter households in the same proportion of very low-income and low-income renter households to all renter households within the City of National City, as determined

by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement protected dwelling units shall be provided in that same percentage.

- b. If all of the affordable dwelling units are vacant or have been demolished within the last seven (7) years preceding the application, the development must:
  - (a) Contain at least the same number of replacement affordable dwelling units, of equivalent size and bedrooms, as existed at the high point of those units in the seven-year period preceding the application, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time.
  - (b) If all of the protected dwelling units are vacant or have been demolished within the seven years preceding the application, the development must contain at least the same number of replacements protected dwelling units, of equivalent size and bedrooms, as existed at the high point of those units in the seven-year period preceding the application and must be made affordable to and occupied by persons and families in the same.
  - (c) If the income categories are unknown for the high point, it is presumed that the dwelling units were occupied by very low-income and low-income renter households in the same proportion of very low-income and low-income renter households to all renter households within the City of National City, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement dwelling units shall be provided in that same percentage.
3. All replacement affordable dwelling unit calculations resulting in fractional units shall be rounded up to the next whole number.
4. All rental replacement affordable dwelling units shall be affordable for at least 55 years through a recorded affordability restriction documented by written agreement, and a deed of trust securing the agreement, entered into by the applicant and the National City Housing Authority.
5. Any existing residents will be allowed to occupy their dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination. The property owner shall deliver a notice of intent to terminate to the Housing Authority and to each tenant household.

6. The applicant agrees to provide relocation benefits to the occupants of those affordable residential dwelling units, and the right of first refusal for a comparable dwelling unit available in the new housing development at a rent affordable to very low- or low-income households.
  - (a) The displaced occupants are entitled to payment for actual moving and related expenses that the Housing Authority determines to be reasonable and necessary.
  - (b) For any very low- or low-income household displaced by conversion, the applicant shall pay to such household an amount in accordance with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the California Government Code.
  - (c) For a development, residents living in the jurisdictional boundary limits of National City at the time of application shall receive priority for 75 percent of the affordable dwelling units in the development that are reserved for very low-income or low-income households.
7. All for-sale replacement protected dwelling units shall be subject to the following provisions:
  - (a) The initial occupant of all for-sale affordable protected dwelling units shall be a very low-income or low-income household.
  - (b) Prior to, or concurrent with, the sale of each protected dwelling unit, the applicant shall require the buyer to execute and deliver a promissory note in favor of the National City Housing Authority so that the repayment of any initial subsidy is ensured.
  - (c) Each for-sale protected dwelling unit shall be occupied by the initial owner at all times until the resale of the protected dwelling unit.
  - (d) Upon the first resale of a protected dwelling unit, the seller shall comply with all conditions regarding the sale of a dwelling unit, as applied by the National City Housing Authority, and as set forth in California Government Code Section 65915(c)(2).
- C. The applicant shall provide existing residents of protected dwelling units with all of the following:
  1. The ability to occupy their units until six months before the start of construction activities with proper notice, pursuant to California Government Code Sections 7260

through 7277. Any existing residents will be allowed to occupy their dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination of tenancy. The property owner shall deliver a notice of intent to terminate tenancy to the National City Housing Authority and to each tenant household.

2. To those households that remain in a protected dwelling unit, the applicant shall provide:
  - (a) Relocation benefits pursuant to consistent with the requirements of California Government Code Sections 7260 through 7277 for public agencies. The applicant or applicant's agent shall engage a qualified third-party contractor or consultant to oversee the provision of the required relocation benefits. The third-party contractor or consultant shall provide a letter to the National City Housing Authority certifying compliance with the relocation benefits requirements after completion of the relocation process.
  - (b) A right of first refusal for a comparable dwelling unit available in the new development affordable to the household at an affordable rent or affordable housing cost based on household income in accordance with Table 143-12A.
  - (c) Residents living within one mile of the development at the time of application shall receive priority for 75 percent of the affordable dwelling units in the development that are reserved for very low-income or low-income households.

**18.49.50 Tenant Benefits, Rights, and Obligations.**

- A. The subdivider of a condominium conversion project shall provide the benefits specified in Section 18.30.090 (C) to persons whose tenancy in very low- and low-income units in a project the subdivider terminates due to the condominium conversion.
- B. The applicant shall provide a relocation assistance payment to all tenants of the project including:
  - a. The relocation payment shall be three months' rent based on the current National City "fair market rent" for apartment size, as established by the U.S. Department of Housing and Urban Development.
  - b. The relocation payment shall be paid no later than the day on which the applicant gives notice to the tenant to vacate the premises and shall be based upon the fair market rent at the time of the notice.
  - c. The applicant shall provide relocation benefits consistent with the requirements of California Government Code Sections 7260 through 7277 for public agencies.
  - d. The applicant or applicant's agent shall engage a qualified third-party contractor or consultant to oversee the provision of the required relocation benefits.

- e. The third-party contractor or consultant shall provide a letter to the National City Housing Authority certifying compliance with the relocation benefits requirements after completion of the relocation process.
- C. Any existing tenants in the project will be allowed to occupy their dwelling units until six months before the start of construction activities with proper notice, which shall occur at least 12 months prior to the anticipated date of termination of tenancy. The property owner shall deliver a notice of intent to terminate tenancy to the National City Housing Authority and to each tenant household.

**18.49.060 Incentives in Exchange for Transit Priority Area Affordable Housing.**

An applicant proposing development that is consistent with the criteria in Section 18.49.030(A)(C) shall be entitled to the following incentives:

- A. Waiver of the existing FAR and a new FAR based upon whether the development is located in FAR Tier 1 or FAR Tier 2. If a mixed-use development is proposed, the floor area ratio of the non-residential portion of the development shall not exceed the maximum floor area ratio of the applicable base zone.
- B. Waiver of the maximum permitted residential density of the land use designation(s) in the applicable land use plan. Density shall be limited by the allowable floor area ratio and the requirements of the California Building Code as adopted and amended by the City of National City.
- C. Waiver of Development Impact Fees for all covenant-restricted affordable units and units exceeding 800 SF.
- D. Waiver of the following applicable base zone regulations:
  - 1. Minimum lot area if a qualifying development is proposed in a lot with an area of 5,000 square feet or less.
  - 2. Street frontage requirements, if safe and adequate access to the premises can be provided to the satisfaction of the Fire Department.
  - 3. Maximum lot coverage if a qualifying development is proposed in a lot with a maximum lot coverage of 75 percent or less.
  - 4. Floor Area Ratio (FAR) Bonus for Residential Mixed-Use. Development utilizing the regulations in this Division shall not be eligible for other FAR or density bonuses.
  - 5. Maximum front setback or street side setback if the maximum is 20 feet or less.

- E. Waiver of the personal storage area requirement in Section 18.42.070 (A)(7) and the private exterior open space requirement in Section 18.41.040 for all dwelling units in the development.
- F. Use of up to four Affordable Housing Incentives. An applicant utilizing the regulations in this Division shall be entitled to incentives for any development for which a written agreement and deed of trust securing the agreement is entered into by the applicant and the National City Housing Authority.
1. An incentive means any of the following:
    - (a) A deviation to a development regulation, with the exception of any regulations or requirements of this Division;
    - (b) Any other incentive proposed by the applicant that results in identifiable, actual cost reductions.
  2. Items not considered incentives by the City of National City include, but are not limited to the following:
    - (a) A waiver of a required permit;
    - (b) A waiver of fees or dedication requirements;
    - (c) A direct financial incentive;
    - (d) Approval of mixed-use zoning in conjunction with a residential development;
    - (e) A waiver of any of the requirements, regulations, or standards of this Division.
  3. An incentive requested as part of a development meeting the requirements of this Division shall be processed according to the following:
    - (a) Upon an applicant's request, a development that meets the applicable requirements of this Division shall be entitled to incentives unless the City makes a written finding of denial based upon substantial evidence, of any of the following:
      - i. The incentive is not required in order to provide for affordable housing costs, as defined in California Health and Safety Code Sections 50052.5 and 50053;
      - ii. The incentive would have a specific adverse impact upon public health and safety as defined in Government Code Section 65589.5, the physical environment, including environmentally sensitive lands for which there is no

feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to very low-income and low-income households;

iii. The incentive would be contrary to state or federal law. Requested incentives shall be analyzed in compliance with the California Environmental Quality Act (CEQA) and no incentive shall be granted without such compliance.

(b) The granting of an incentive shall not require a General Plan amendment, zoning change, a development permit, or other discretionary approval.

(c) When a development permit is otherwise required, the decision to deny a requested incentive shall be made by the decision maker for the development permit.

4. The number of incentives available is as follows:

(a) Three incentives for a development that includes at least 10 percent of the post-density dwelling units for very low-income households at or below 50 percent area median income (AMI).

(b) Four incentives for a development in which at least 10 percent of the post-density bonus covenant-restricted dwelling units are three bedrooms at or below 80 percent AMI.

G. Affordable Housing waivers may be granted, except that waivers cannot be used to deviate from the requirements of this Division. An applicant utilizing the regulations in this Division shall be entitled to a waiver for any development for which a written agreement and a deed of trust securing the agreement is entered into by the applicant and the National City Housing Authority.

1. A waiver means a request by an applicant to waive or reduce a development standard that physically precludes construction of development meeting the criteria of this Division.

2. Upon an applicant's request, a development that meets the applicable requirements of this Division shall be entitled to a waiver unless the City makes a written finding of denial based upon substantial evidence, of any of the following:

(a) The waiver would have a significant, quantifiable, direct, and unavoidable impact upon health, safety, or the physical environment for which there is no feasible method to mitigate or avoid the impact;

(b) The waiver would be contrary to state or federal law. Requested waivers shall be

analyzed in compliance with CEQA as set forth in Chapter 12, Article 8, and no waiver shall be granted without such compliance; or,

3. The granting of a waiver shall not require a General Plan amendment, zoning change, development permit, or other discretionary approval.
4. There is no limit on the number of waivers an applicant may request.

**18.49.070 Required Provision of Affordable Dwelling Units.**

- A. An applicant requesting the application of the regulations in this Division shall provide a written agreement to provide affordable dwelling units, entered into by the applicant and the National City Housing Authority and secured by a deed of trust, that meets the following requirements:
  1. Provides at least 10 percent of the post-density bonus rental dwelling units in the development, excluding any additional dwelling units allowed under a floor area ratio bonus, for rent by very low-income households at a cost, including an allowance for utilities, which does not exceed 30 percent of 50 percent of the AMI, as adjusted for household size.
  2. Provides at least 10 percent of the post-density bonus rental dwelling units in the development as three-bedroom units, excluding any additional dwelling units allowed under the FAR bonus, for rent by low-income households, including an allowance for utilities, which does not exceed 30 percent of 80 percent of the AMI, as adjusted for household size.
  3. For rental dwelling units to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:
    - (a) The affordable dwelling units shall be comparable in bedroom mix and amenities to the market-rate dwelling units in the development, as determined by the National City Housing Authority, except that the affordable dwelling units shall not be required to exceed three bedrooms per dwelling unit. The affordable dwelling units shall have access to all common areas and amenities provided by the development. The square footage and interior features of the affordable units shall be good quality and consistent with current building standards for new housing in the City of National City.
    - (b) The affordable dwelling units shall remain available and affordable for a period of at least 55 years, unless 100 percent of the dwelling units in the development are affordable and the development is owned and operated by an institution of higher education, including a community or junior college, college or university, or a religious institution-affiliated housing development project, as defined in California

Government Code Section 65913.6, in which case the affordable dwelling units shall remain available and affordable for a period of at least 25 years.

- B. Nothing in this Division shall preclude an applicant from using affordable dwelling units constructed by another applicant to satisfy the requirements of this Division, including contracting with an affordable housing developer with experience obtaining tax-exempt bonds, low-income housing tax credits, and other competitive sources of financing, upon approval by the National City Housing Authority.

#### **18.49.080 Supplemental Development Regulations**

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize incentives or waivers provided in Section 18.49.060 to deviate from the requirements in Section 18.48.080.

- a) Pedestrian Circulation Space. All development shall include the following pedestrian circulation improvements:
  - 1. Sidewalk Widening. A sidewalk widening enlarges a pre-existing or required sidewalk to a minimum of 10 feet in width measured perpendicular to the street. For a premise that is less than 25,000 square feet, an applicant may elect to provide public seating and pedestrian-oriented lighting, in lieu of a sidewalk widening.
  - 2. At least one, 24-inch box canopy tree is required for each 25 feet of street frontage on each side of the required sidewalk. Palm trees are prohibited.
  - 3. Above-ground utility placement within the sidewalk and/or pedestrian path is prohibited.
  - 4. Gated entryways and street yard fencing are prohibited.
  - 5. Green or cool roofs are defined as a roof with high reflectivity and emissivity that improves the energy efficiency of a building that has minimum reflectance of 0.70 and a minimum emittance of 0.75
- b) Buffer from Adjacent Freeways. Development on premises within 100 feet of a freeway shall comply with the following:
  - 1. A 10-foot minimum landscaped buffer shall be provided between the residential and commercial uses and the freeway; and
  - 2. Outdoor areas such as balconies, patios, parks, plazas, and other spaces occupied by residents, customers, or members of the public shall be oriented away from the

freeway.

c) Transition to Adjacent Residential Single-Unit Zones. Development on premises directly adjacent to a Residential Single-zoned parcel, including RS-1; RS-2; RS-3, and RS-4, where an existing dwelling unit is located on the adjacent premises, shall comply with the following criteria:

1) Incorporate a transition plane in the development that does not exceed a 65-degree angle.

a. The transition plane for the development shall start from the shared property line with the RS zone and extend 1/3 of the lot depth.

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**Proposed Glossary Terms:**

**Low Income:** Low income means any household whose income exceeds 50 percent but does not exceed 80 percent of the median income as adjusted for household size as defined by the U.S. Department of Housing and Urban Development for the San Diego Standard Metropolitan Statistical Area.

**Transit Priority Areas (TPA):** Transit priority area means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a major transit stop that is existing or planned, if the planned major transit stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program.

**Very Low Income:** Very low income means any household whose income does not exceed 50 percent of median income as adjusted for household size as defined by the U.S. Department of Housing and Urban Development for the San Diego Standard Metropolitan Statistical Area.

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