

# BARRIO LOGAN COMMUNITY PLAN

## Draft Amendments to the Land Development Code Regulations

*DRAFT 9/27/21*

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### Introduction

Community plans provide policies that guide actions by the City, property owners and tenants, and community members and organizations, to achieve the community's goals. Community plans are paired with implementation tools, including regulations that control the use of the land which are often called zoning, zoning regulations, or development regulations. The City's regulations for property development and other related land use activities within the City of San Diego are called the Land Development Code. The Land Development Code is part of the San Diego Municipal Code and is regularly reviewed and updated when needed, and amendments may be proposed as part of community plan updates.

The 2021 Barrio Logan Community Plan Update builds on the 2013 draft Plan, incorporates land uses that address a recent agreement among community groups and stakeholders, and identifies village areas for new housing to be developed. Through the outreach and feedback activities for the 2021 Barrio Logan Community Plan, additional policies were added to encourage affordable housing development and programs for existing residential tenants in the Barrio Logan Community Planning Area. The City has heard many community members request a stronger approach to protecting affordable housing and anti-displacement. Therefore, the 2021 Barrio Logan Community Plan Update would require on-site affordable housing, specifically a 15 percent inclusionary housing requirement for any residential and mixed-use developments of 10 or more dwelling units on land designated Community/Neighborhood Village.

As part of the Barrio Logan Community Plan Update, the City is also proposing amendments to the Land Development Code to strengthen the existing regulations for Dwelling Unit Protection and Condominium Conversion. The purpose of proposing these amendments as part of the Barrio Logan Community Plan Update process is to provide enhanced support for tenants who are affected by new development permitted by the new community plan's land use plan and corresponding zoning regulations in coordination with the adoption of the new community plan and zoning. The proposed amendments are based on the dwelling unit replacement and tenant support requirements in the City's adopted Complete Communities Housing Solutions Regulations (see Land Development Code Section 143.1005) and could be extended to other planning areas during future community plan updates or as part of future affordable housing and tenant protection programs.

### Draft Amendments to the Dwelling Unit Protection and Condominium Conversion Regulations

The current regulations for dwelling unit protection and condominium conversion are contained within Chapter 14, the General Regulations chapter of the Land Development Code. The Dwelling Unit Protection Regulations address when and how dwelling units must be replaced if they are proposed to be removed to allow new development. The Dwelling Unit Protection Regulations apply to deed-restricted

affordable housing and naturally-occurring affordable housing as well as housing occupied by very low income or low income households. These regulations were adopted in 2020 to comply with recent state law. The Condominium Conversion Regulations address adequate notice of proposed condominium conversions and relocation assistance. The Barrio Logan Community Plan Update proposes additional protections to the current regulations as shown in underlined text below for Section 143.1212 Replacement of Protected Dwelling Units and Section 144.0505 Tenant Benefits, Rights and Obligation.

### **§143.1212 Replacement of Protected Dwelling Units**

*Development* subject to this Division that proposes demolition of vacant or occupied *protected dwelling units* on the *premises* shall comply with all of the following:

- (a) The *development* shall include at least as many *dwelling units* as the greatest number of permitted *dwelling units* that existed on the *premises* within the five -year period preceding the application. In the Barrio Logan Community Plan Area, the *development* shall include at least as many *dwelling units* as the greatest number of permitted *dwelling units* that existed on the *premises* within the seven-year period preceding the application.
- (b) The *development* shall replace all existing or demolished *protected dwelling units* on the *premises*.
- (c) The *protected dwelling units* shall be replaced as follows:
  - (1) For a *development* containing any occupied *protected dwelling units*, the *development* must 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*. 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. If the income category of the last household is unknown, it is rebuttably 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 San Diego, 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.
  - (2) If all of the *protected dwelling units* are vacant or have been demolished within the five years preceding the application, the *development* must contain at least the same number of replacement

*protected dwelling units*, of equivalent size and *bedrooms*, as existed at the highpoint of those units in the five-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. In the Barrio Logan Community Plan Area, 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 replacement *protected dwelling units*, of equivalent size and *bedrooms*, as existed at the highpoint 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. If the income categories are unknown for the highpoint, it is rebuttably 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 San Diego, 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.

- (3) All replacement *protected dwelling unit* calculations resulting in fractional units shall be rounded up to the next whole number.
- (4) All rental replacement *protected 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 President and Chief Executive Officer of the San Diego Housing Commission.
- (5) 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 San Diego Housing Commission 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 San Diego Housing Commission, and as set forth in California Government Code Section 65915(c)(2).
- (d) 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.

For residents of the Barrio Logan Community Plan Area, 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 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 California Government Code Sections 7260 through 7277.
- (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) For a development located within the Barrio Logan Community Plan Area, 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, low income, or moderate income households.



**Table 143-12A**  
**Affordability Levels for Replacement *Protected Dwelling Units***

	<b>Rental <i>Dwelling Units</i></b>	<b>For-Sale <i>Dwelling Units</i></b>
	<b>shall be affordable, including an allowance for utilities, at a rent that does not exceed:</b>	<b>shall be affordable at an affordable housing cost that does not exceed:</b>
<b><i>Very Low Income households</i></b>	30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the unit.	30 percent of 50 percent of the area median income, as adjusted for household size appropriate for the unit.
<b><i>Low Income households</i></b>	30 percent of 60 percent of the area median income, as adjusted for household size appropriate for the unit.	30 percent of 70 percent of the area median income, as adjusted for household size appropriate for the unit.

- (3) Any *protected dwelling units* replaced in accordance with this Division may be counted toward compliance with the Inclusionary Affordable Housing Regulations in Chapter 14, Article 2, Division 13; and the Affordable Housing Regulations in Chapter 14, Article 3, Division 7.

**§144.0505 Tenant Benefits, Rights and Obligations**

- (a) The *subdivider* of a *condominium conversion* project shall provide the benefits specified in section 144.0505(b) to any person whose tenancy in the project the *subdivider* terminates due to the *condominium conversion*.
- (b) The *applicant* shall provide a relocation assistance payment to all tenants of the project. The relocation payment shall be three months rent based on the current San Diego “fair market rent” for apartment size, as established by the U.S. Department of Housing and Urban Development. 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. For residents of the Barrio Logan Community Plan Area, the applicant shall provide relocation benefits pursuant to California Government Code Sections 7260 through 7277.
- (c) For residents of the Barrio Logan Community Plan Area, 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 Housing Authority and to each tenant household.