

**ATTACHMENT 2**  
**Proposed Ordinances No. 2020-10, 2022-03, and 2022-11 Combined**

**CHAPTER 30.04 (DEFINITIONS) OF TITLE 30, ZONING**

*Chapter 30.04 (Definitions) of Title 30 of the Encinitas Municipal Code is hereby amended as follows (~~strikeout~~ is used to denote existing text being deleted; underline is used to denote new text being added):*

ACCESSORY DWELLING UNIT shall mean an attached or a detached residential dwelling unit on the same lot as an existing or proposed ~~dwelling unit~~ primary residence ~~zoned for to allow~~ single-family or multifamily residential use that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residential structure(s) ~~are single family dwelling is or will be~~ situated. An ADU can be an efficiency unit, as defined in Section 17958.1 of Health and Safety Code, or a manufactured home, as defined in Section 18007 of the Health and Safety Code.

JUNIOR ACCESSORY DWELLING UNIT shall mean a residential dwelling unit that is no more than 500 square feet in area, contained entirely within ~~an existing~~ single-family residence, and with separate sanitation facilities from, or shared sanitation facilities with, the existing residence.

**SECTION 30.16.010 (DEVELOPMENT STANDARDS) OF TITLE 30, ZONING**

*Subsection 30.16.010(F) (Accessory Structures) of Section 30.16.010 (Development Standards) of Title 30 of the Encinitas Municipal Code is hereby amended as follows (underline is used to denote new text being added):*

F. Accessory Structures. In all residential zones except for the R-30 Overlay zone, and except for accessory dwelling units and junior accessory dwelling units conforming to Sections 30.48.040(T) and 30.48.040(U), the following development standards related to accessory structures shall apply (refer to Chapter 30.48, Accessory Use Regulations, for additional standards related to accessory uses, location, quantity permitted, size, etc. of permitted accessory structures),

**SECTION 30.48.040 (ACCESSORY USE REGULATIONS) OF TITLE 30, ZONING**

*Subsection 30.48.040(T) (Accessory Dwelling Units) of Section 30.48.040 (Accessory Use Regulations) of Title 30 of the Encinitas Municipal Code is hereby amended as follows (~~strikeout~~ is used to denote existing text being deleted; underline is used to denote new text being added):*

T. Accessory Dwelling Units, General. ~~Attached and Detached~~.

1. Accessory dwelling units shall be a permitted use in all areas zoned to allow single-family or multifamily residential use.

~~42.~~ One ~~attached or one detached~~ accessory dwelling unit may be permitted in conjunction with an existing or proposed single-family residence ~~or the construction~~

~~of a new single-family residence on a lot zoned for residential single-family or multifamily use. Accessory dwelling units meeting the standards of Subsection 30.48.040(T)(19) are permitted in conjunction with multifamily dwelling units.~~

~~23.~~ An accessory dwelling unit may be permitted on a lot ~~where~~ with an existing or proposed junior accessory dwelling unit exists meeting the standards of Section 30.48.040(U).

~~3.~~ An accessory dwelling unit shall be incidental, appropriate, and clearly subordinate to the ~~primary single-family residence.~~

~~4.~~ Attached and detached accessory units must maintain the general character of a single-family residential neighborhood, and maintain the character as a single-family dwelling as determined by the Development Services Director. Architectural design, building materials, and exterior colors of the accessory dwelling unit shall be compatible with the ~~principal residence~~ primary residential structure(s).

~~5.~~ All development standards contained in the underlying zoning district shall apply to accessory dwelling units unless they are inconsistent with the provisions of this Section 34.48.040(T), in which case the standards of this Section 34.48.040(T) shall apply.

~~56.~~ An accessory dwelling unit shall not be sold separately from the primary residence or multifamily ownership structure as detailed within the covenant for the accessory dwelling unit.

~~67.~~ An accessory dwelling unit may be rented, but only with a rental agreement with terms greater than 30 days.

~~78.~~ ~~Except as provided herein, attached and detached a~~Accessory dwelling units shall comply with all applicable local building and fire code requirements, ~~as appropriate.~~

~~89.~~ Prior to approval of an accessory dwelling unit on properties with a private sewage system, approval by the County of San Diego Department of Environmental Health, or any successor agency, shall be required.

~~910.~~ Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

~~1011.~~ An ~~attached~~ accessory dwelling unit shall have a separate exterior entrance from that of the primary dwelling unit. ~~entry with no interior access to the primary dwelling unit.~~

~~12.~~ An accessory dwelling unit may be constructed above a garage provided that there is no loss of parking provided within the garage.

13. Zoning limits on lot coverage, floor area ratio, open space requirements, and size must permit, or shall be waived, to allow up to an 800 square foot detached or attached accessory dwelling unit, up to 16 feet high, with four-foot side and rear yards, unless the open space is within a recorded easement or protected by the Local Coastal Plan.

4414. Unit Size.

- a. An attached or detached accessory dwelling unit with a living area of up to 800 square feet, a maximum height of 16-feet, and four-foot side and rear setbacks, is permitted regardless of the living area of the primary dwelling unit.
- b. The Mmaximum living area of an attached or detached accessory unit shall not exceed 1,200 square feet or the total living area of the primary dwelling unit, whichever is less.

4215. Setbacks for accessory units:

- a. Except as provided herein in this Section 34.48.040(T), attached and detached accessory dwelling units shall comply with the setbacks required for the primary dwelling unit as established by the underlying zoning designation.
- b. Attached and detached Notwithstanding any other provision of this Section 34.48.040(T), accessory dwelling units shall comply with the setbacks established in Chapter 30.34 (Special Purpose Overlay Zones) and the sensitive habitat protection policies of the Municipal Code and Local Coastal Program where required by to comply with the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program.
- c. Attached and detached aAccessory dwelling units may be located within a required street side, interior side, yard or rear yard setback area provided that such structure is located no closer than four feet to a side or rear lot line shall have a setback of not less than five feet from side and rear property lines, except unless any of the following are true:
  - i. The underlying zoning allows for a setback of less than four feet.
  - ii. An accessory dwelling unit that is constructed above (may be cantilevered, or supported by posts, but not solid walls) an existing or proposed attached or detached garage shall have a setback of five four feet from the side and rear property lines. However, an accessory dwelling unit that is constructed above a garage shall comply with the

~~setbacks established in Chapter 30.34 (Special Purpose Overlay Zones) of the Municipal Code.~~

- iii. ~~No setback shall be required for if the accessory dwelling unit consists of the conversion of existing space wholly within an existing primary residence, or wholly within an existing accessory building to an accessory dwelling unit, structure, or for is a structure constructed in the same location and to the same dimensions as an existing structure, unless the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program requires a greater setback. However, an existing accessory building (including an existing garage) that is converted to an accessory dwelling unit shall comply with the setbacks established in Chapter 30.34 (Special Purpose Overlay Zones) of the Municipal Code.~~
- ivii. Side and rear setbacks sufficient for fire and safety conditions and regulations shall be required for an accessory dwelling unit constructed within the existing space of an accessory structure except for an expansion of up to 150 square feet to accommodate ingress and egress only, unless the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program requires a greater setback.
- iii. ~~Roof eaves and other architectural projections for accessory dwelling units shall comply with Section 30.16.010E8.~~
- iv. ~~Accessory dwelling units constructed on properties directly adjacent to a coastal bluff shall be consistent~~ comply ~~with the setbacks required for the primary dwelling unit as established by the underlying zoning designation~~ the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program.

~~13.d.~~ Any accessory dwelling unit that is permitted or constructed in reliance on the setback relief provisions established for accessory dwelling units in Subsection 30.48.040(T)(12)(c) shall be maintained:

- ~~a.~~ Maintained as an accessory dwelling unit and shall not be converted to or used for any other purpose.
- ~~b.~~ Limited to a height of one story for (1) any portion of an attached ADU relying on the setback reliefs, or (2) an entire detached ADU structure if any portion of the structure relies on the setback reliefs.

#### 1316. Height.

- a. Any accessory dwelling unit in compliance with the required setbacks of the underlying zone shall be permitted to build to the height limit for that

zone pursuant to Chapter 30.16.010.B.6 (Residential Zones) of the Encinitas Municipal Code.

- b. An accessory dwelling unit that is constructed above a proposed or existing attached or detached garage shall be permitted to construct to the height regulations of the underlying zone pursuant to Chapter 30.16.010.B.6 (Residential Zones).
- c. Any accessory dwelling unit not constructed above a garage, or wholly within or to the same dimensions as an existing or proposed primary residence or accessory structure, and not in compliance with the required setbacks of the underlying zone shall be permitted to build to a maximum of 16-feet in height, with no projections permitted above the maximum 16-foot height limit. Roof decks shall be permitted provided the design of the roof or deck railings do not extend beyond the maximum 16-foot height limit.

#### 1417. Architectural Projections.

- a. Architectural features of the accessory dwelling unit including required access stairways, awnings, chimneys, bay windows, window seats, fireplaces, planters, and porches, steps, and decks less than thirty inches above grade, which do not create additional livable area, may project into any yard not more than four feet; however, architectural features shall not be permitted to project into the minimum required four-foot side and rear setback, unless permitted by the underlying zoning.
- b. Roof eaves for the accessory dwelling unit shall be permitted to project a maximum of two feet into the minimum required four-foot street side, interior side, and rear yard setback.

~~14. An additional five percent (5%) of lot coverage and ten percent (0.1) of floor area ratio above that established for the underlying zoning designation shall be allowed for accessory dwelling units only for lots of 10,000 square feet or less and where there is an existing single-family residence.~~

#### 1518. Parking.

- a. Except as otherwise provided herein, parking spaces for accessory dwelling units shall comply with Chapter 30.54 (Off-Street Parking) of the Municipal Code, including, but not limited to, the design requirements of the Off-Street Parking Design Manual.
- b. One parking space shall be required for an accessory dwelling unit, which may be provided as tandem parking on an existing driveway or within setback

areas, provided that the parking area is properly surfaced in accordance with applicable regulations.

~~c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the city shall not require that those off-street parking spaces be replaced.~~

c. Any required parking spaces removed in conjunction with the construction of an accessory dwelling unit shall be replaced on the same lot as the accessory dwelling unit.

i. The replacement parking spaces may be located in any configuration on the lot, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

ii. Uncovered replacement parking spaces may be located within building setback areas.

iii. Structures for covered parking spaces shall be required to comply with applicable setbacks.

d. Notwithstanding the above or any other law, no parking standards shall be imposed for an accessory dwelling unit in any of the following instances:

i. The accessory dwelling unit is located within a radius of one-half mile of public transit.

ii. The accessory dwelling unit is located within an architecturally and historically significant historic district.

iii. The accessory dwelling unit is contained wholly within the existing space of an existing primary residence or an existing accessory building, with no additional area added. If an accessory dwelling unit constructed under this provision is expanded, parking shall be provided for the accessory dwelling unit in accordance with this section.

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

v. When there is a car share facility located within one block of the accessory dwelling unit.

#### 4719. Multifamily Dwelling Structures.

a. Accessory dwelling units are permitted within any portions of an existing multifamily dwelling structure in space currently not being used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, crawlspaces, or garages, if each unit complies with state building standards for dwellings. The number of accessory dwelling units permitted under this subsection is equivalent to up to 25 percent of the existing units in the building or one, whichever is greater. In determining the maximum number of accessory dwelling units

allowed, any fraction of an accessory dwelling unit shall be rounded down to the next whole number not less than one.

- b. Not more than two detached accessory dwelling units may be constructed on a lot that has an existing multifamily dwelling, subject to a height limit of sixteen feet and four-foot interior side and rear yard setbacks. Any accessory dwelling unit in compliance with the required setbacks of the underlying zone shall be permitted to build to the height limit for that zone pursuant to Chapter 30.16.010.B.6 (Residential Zones) of the Encinitas Municipal Code.

#### 4620. Utilities.

- a. Accessory dwelling units shall not be considered new residential uses for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer service-, unless the accessory dwelling unit is constructed with a new single-family dwelling. Any fees related to utilities shall be proportional to the burden of the accessory dwelling unit on the water or sewer system, based upon either its size in square feet or fixture units.
- b. For an accessory dwelling unit that is contained within the existing space of a single-family residence or accessory building, including up to 150 square foot expansion of the accessory building to accommodate egress and ingress, that has independent exterior access from the existing residence and the side and rear setbacks are sufficient for fire safety, no new or separate utility connection directly between the accessory dwelling unit and the utility shall be required and no related connection fee or capacity charge shall be imposed. For accessory units that do not meet these criteria, new or separate utility connections may be required, and related connection fees or capacity charges may be imposed.
- c. Accessory dwelling units shall be exempt from the requirements of undergrounding overhead utilities and public right-of-way dedication and improvements.

#### 21. Applications.

~~17. Except for required coastal development permits, A~~ applications for accessory dwelling units on a lot with an existing single-family residence or multifamily dwelling units that conforming to the requirements of this section shall be considered as ministerially permits without discretionary review or a hearing, and the City shall approve or deny such applications within 42060 calendar days after receiving the completed application. If the permit application to create an accessory dwelling unit is submitted with a permit application to create a new

single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit shall still be considered as a ministerial permit without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.

Coastal development permits: Accessory dwelling units and junior accessory dwelling units that are not completely contained in the existing primary structure, or include increases in habitable area, or include conversion of non-habitable space, are considered self-contained residential units and require a coastal development permit or administrative coastal development permit. The City shall approve or deny coastal development permit applications within 60 calendar days after receiving the completed application to the extent feasible.

#### 1822. Fees.

Development Service Department fees for accessory dwelling units may be waived. Any impact fees shall not be imposed upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

#### 23. Nonconforming.

The city shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of legal nonconforming zoning conditions, except as provided for nonconforming detached accessory structures under Municipal Code Section 30.76.120 (A)(1)(d).

#### 24. Covenants.

19a. Prior to issuance of a building permit for an accessory dwelling unit, a covenant shall be recorded between the owner and the City of Encinitas agreeing to the terms stipulated in this chapter. The covenant shall specifically mention that:

- a.i. The accessory dwelling unit shall not be sold separately from the primary dwelling unit or multifamily ownership structure as detailed within the covenant for the accessory dwelling unit.
- b.ii. The accessory unit may be rented, but only with rental agreements with terms greater than 30 days.



eiii. The accessory unit is limited to the size and attributes set forth by this section.

div. The covenant shall be binding upon any successors in interest or ownership of the property and lack of compliance with the provisions thereof may result in legal action against the property owner, including revocation of the right to maintain an accessory dwelling unit on the property.

25. In cases of conflict between this subsection 30.48.040(T) and any other provision of this title, the provisions of this subsection shall prevail. To the extent that any provision of this subsection conflicts with state law, the applicable provision of state law shall control, but all other provisions of this chapter shall remain in full force and effect.

2026. Definitions.

The definitions found in Government Code Section 65852.2 Accessory Dwelling Units, as amended, and the following definitions shall apply to the terms contained in this section. For the purposes of this section, the following definitions apply:

- a. "Accessory dwelling unit" shall be as defined in Chapter 30.04 of this title.
- b. "Car share facility" shall mean a city permitted designated area where a car share vehicle can be parked for extended periods of time.
- c. "Existing space" shall mean an enclosed area within the existing exterior walls and existing roofline of an existing structure that can be made safely habitable under applicable building and fire codes at the determination of the building official, notwithstanding any noncompliance with zoning regulations ~~that was in existence on the date the ordinance codified in this section became effective.~~
- d. "Living area" shall mean the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory ~~building~~ structure.
- e. ~~"Major public transit center" shall mean a multimodal transportation hub.~~
- f. ~~"Public transit" shall mean any major public transit center, or any bus stop.~~

*Subsection 30.48.040(U) (Junior Accessory Dwelling Units) of Section 30.48.040 (Accessory Use Regulations) of Title 30 of the Encinitas Municipal Code is hereby amended as follows (~~strikeout~~ is used to denote existing text being deleted; underline is used to denote new text being added):*

U. Junior Accessory Dwelling Units.

1. One junior accessory dwelling unit may be permitted in conjunction with ~~an existing, previously constructed~~ a proposed or existing single-family residence on lots zoned for single-family or multifamily use.
2. A junior accessory dwelling unit may be permitted within a single-family residence on a lot with an existing or proposed accessory dwelling unit ~~exists~~ conforming with Section 34.48.040(T).
3. A junior accessory dwelling unit shall not be sold separately from the primary residence.
4. A junior accessory dwelling unit may be rented, but only with a rental agreement with terms greater than 30 days.
5. The owner of a lot with a junior accessory dwelling unit shall occupy as a principal residence either the primary dwelling or the junior accessory dwelling unit or, if applicable, the accessory dwelling unit, except where the primary dwelling and junior accessory dwelling are held by a governmental agency, a land trust or housing organization in an effort to create affordable housing.
6. ~~Junior Accessory Dwelling Unit~~ Development Standards.
  - a. A junior accessory dwelling unit shall not exceed 500 square feet in total floor area.
  - b. A junior accessory dwelling unit shall be contained entirely within ~~an~~ the walls of a proposed or existing single-family residence.
  - ~~c. Creation of a junior accessory dwelling unit must include the conversion of an existing bedroom.~~
  - ~~dc.~~ A junior accessory dwelling unit shall be provided with a separate exterior entry from that of the primary dwelling.
  - ~~e. An interior connection to the main living area of the primary residence shall be maintained. A second door may be added for sound attenuation.~~
  - ~~fd.~~ A junior accessory dwelling unit shall include an efficiency kitchen, requiring and limited to which shall include the following components:
    - ~~i. A sink with a maximum waste line of one and one-half inches.~~
    - ii. A cooking facility with appliances ~~that do not require electrical service greater than 120 volts or natural or propane gas.~~

- iii. A food preparation counter and storage cabinets that are reasonable to the size of the unit.
  - ge. No additional parking shall be required for a junior accessory dwelling unit ~~other than that required when the existing primary residence was constructed.~~
  - hf. ~~The junior accessory dwelling unit may share a bath/sanitation facility with the primary residence or have its own. Access to a bathroom is required, which may be part of the junior accessory dwelling unit or located in the existing primary dwelling. If provided as part of the primary dwelling, the junior accessory dwelling unit shall have direct access to the main living area of the primary dwelling so as to not need to go outside to access a bathroom.~~
7. Except as provided herein, a junior accessory dwelling unit shall comply with all local building and fire code requirements, as appropriate.
8. Junior accessory dwelling units shall not be required to provide fire sprinklers or fire attenuation specifications if they are not required for the primary residence. ~~An inspection to confirm that the junior accessory dwelling unit complies with development standards may be assessed.~~
9. No sewer or water connection fees shall be required for the development of a junior accessory dwelling unit. ~~An inspection to confirm that the junior accessory dwelling unit complies with development standards may be assessed.~~
10. Prior to issuance of a building permit for a junior accessory dwelling unit, a covenant shall be recorded between the owner and the City of Encinitas agreeing to the terms stipulated in this chapter. The covenant shall specifically mention that:
- a. The junior accessory dwelling unit shall not be sold separately from the primary dwelling unit.
  - b. The junior accessory unit may be rented, but only with a rental agreement with terms greater than 30 days.
  - c. The junior accessory unit is limited to the size and attributes set forth by this section.
  - d. The owner of record of the property shall occupy the primary dwelling unit or the junior accessory dwelling unit or, if applicable, the accessory dwelling unit, except where the primary dwelling and junior accessory dwelling are held by a governmental agency, land trust or housing organization in an effort to create affordable housing.

- e. The covenant shall be binding upon any successors in interest or ownership of the property and lack of compliance with the provisions thereof may result in legal action against the property owner, including revocation of the right to maintain a junior accessory dwelling unit on the property.
- 11. Applications for junior accessory dwelling units conforming to the requirements of this section shall be considered as ministerially permits, without discretionary review or a hearing, and the City shall approve or deny such applications within ~~420~~60 calendar days after receiving the completed application. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerial, without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.
- 12. Impact fees shall not be imposed upon the development of a junior accessory dwelling unit.
- 13. Junior accessory dwelling units shall be exempt from the requirements of undergrounding overhead utilities and public right-of-way dedication and improvements.
- 14. In cases of conflict between this subsection 30.48.040(U) and any other provision of this title, the provisions of this subsection shall prevail. To the extent that any provision of this subsection is in conflict with state law, the applicable provision of state law shall control, but all other provisions of this chapter shall remain in full force and effect.

#### **SECTION 30.76.120 (REMODELING OR RECONSTRUCTION OF RESIDENTIAL BUILDINGS WITH STRUCTURAL/USE NONCONFORMITY) OF TITLE 30, ZONING**

*Subsection 30.76.120(A) (Remodeling or Reconstruction of Residential Buildings with Structural/Use Nonconformity) of Title 30 of the Encinitas Municipal Code is hereby amended as follows (~~strikeout~~ is used to denote existing text being deleted; underline is used to denote new text being added):*

- A. Any residential project of four or fewer dwelling units with one or more structural or use nonconformities that is damaged up to 100% (by accident or voluntary) of its valuation can be reconstructed with the continuation of the nonconformities provided such nonconformities are not increased in density or intensity. Nonconforming residential buildings of four units or less may be reconstructed, added to, or structurally altered so long as neither the density nor the intensity of the nonconformity is increased, and the number and size of existing required parking spaces is not reduced.

1. An increase to the “intensity” of a nonconforming structure/use would refer to:
  - a. Expanding the structural nonconformity, e.g., not meeting development standards.
  - b. Any additions to a nonconforming use (e.g., an existing duplex in a single-family zone) that would expand or intensify the nonconforming use. Expansions/additions to such nonconforming uses shall not be considered an intensification when the combined development of all units on the subject property does not exceed the cumulative limitations of the underlying zone. Where more than one dwelling unit exists on a legal lot, the development allowances of the underlying zone shall be applied on a pro-rata basis (for example, if two dwelling units exist on one lot, each would be allowed one half of the lot coverage and/or floor area ratio applicable to the zone). Where all of the units on the lot are under common ownership, or, in the case of multiple ownership, where all owners of units on the property are in agreement, a different combination of percentages may be established and recorded on the subject property by covenant.
  - c. An addition for the enclosing of parking shall not be considered an increase in intensity of the nonconforming use.
  - d. Conversion of a nonconforming detached accessory structure from a ~~non-~~unhabitable use type (for example, storage building or garage) to a habitable structure type (for example, a portion of the primary dwelling unit ~~or accessory unit~~) shall be considered an intensification or creation of a nonconformity. However, conversion of such ~~nonun~~habitable structures to accessory ~~structures~~ dwelling units permitted under Municipal Code Section 30.48.040W(T) shall not be considered an intensification, unless the structure does not conform with the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program, provided the structure is not located closer than five feet to rear and interior side lot lines, and not located within front or exterior side yard setback areas, pursuant to Municipal Code Section 30.16.010E3.
2. An increase to the “density” of a legal nonconforming structure/use ~~would refer to:~~ is
  - a. ~~New~~ New construction or conversion of existing structures with the result of creating any dwelling units above the number allowed for the subject property in the applicable zone.
  - b. ~~A conforming addition to, or the conversion of a portion of a legal nonconforming single-family residential building in order to create an accessory unit in accordance with Sections 30.16.010 and 30.48.040W~~

~~shall not be considered an increase in density or intensity for purposes of this section.~~

3. New construction, a conforming addition to an existing dwelling, or the conversion existing structures in order to create an accessory dwelling unit or junior accessory dwelling unit in accordance with 30.48.040(T) and 30.48.040(U) shall not be considered an increase in density or intensity for purposes of this section, unless the reconstructed structure does not conform with the coastal bluff and inland hillside, sensitive habitat, or scenic views and visual resource protection policies of the Local Coastal Program.