

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
AMENDING TITLE 17 OF THE MUNICIPAL CODE RE: ZONING ORDINANCE

The City Council of the City of Daly City, DOES ORDAIN as follows:

SECTION 1. Chapter 17.04 of the Daly City Municipal Code is hereby amended to read as follows:

17.04.010 – Definitions

For the purpose of this title certain terms are defined as follows; words used in the present shall mean the future; words used in the singular shall include the plural; the word "shall" is mandatory and the word "may" is directory:

1. "Alley" means any public thoroughfare which affords only a secondary means of access to abutting property.
2. "Apartment" means a room or suite of rooms occupied or designed to be occupied by one family for living and sleeping purposes. See "dwelling unit."
3. "Boardinghouse" means a dwelling other than a hotel where lodging and meals for three or more persons are provided for compensation.
4. "Building" means any structure having a roof supported by columns or walls and designated for the shelter or enclosure of persons, animals, chattels or property of any kind.
5. "Building, accessory" means a detached subordinate building, not exceeding one story, the use of which is incidental to that of the principal building on the same lot or to the use of the land. This is not to be construed as permitting any commercial or industrial use in any residential district nor as permitting living or sleeping quarters in any accessory building. An accessory building in a residential district shall be located on the rear one-half of the lot and at least six feet from a dwelling existing or under construction on the same lot. A covered patio or a similar structure which is open on at least two sides shall be exempt from the use permit requirement for an accessory building.
6. "Building height" means the vertical distance from the average of the finished ground level at the center of all walls of a building to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height level between eaves and ridge for gable, hip or gambrel roofs. In no case shall the front of a building which faces a street exceed the required height limit. However, a building may be "stepped" to allow a total front building height in excess of this requirement, providing that no part of any upper building section shall intercept a plane having an angle of forty-five degrees from the horizontal toward the interior of the lot. Said plane shall originate at the intersection of the roof line of the lowest building section with the front of the building section.
7. "Building, principle" means a building in which the principle use of the property is conducted.
8. "Business office" means any office for the conduct of any one of the following uses: Advertising agency, collection agency, insurance, photographer, private

detective, real estate, social worker. Similar uses may be added to this list by resolution of the planning commission.

9. "Business, retail" means the retail sale of any article, substance or commodity for profit or livelihood conducted within a building, but not including the sale of lumber or other building materials or the sale of used or secondhand goods or materials of any kind.
10. "Business, wholesale" means the wholesale handling of any article, substance or commodity for profit or livelihood, but not including the handling of lumber or other building materials or the open storage or sale of any material or commodity or the processing or manufacturing of any product or substance.
11. "Cemetery" means land used or intended to be used for the burial or interment of dead persons and dedicated or otherwise legally designated for cemetery purposes. Cemetery includes columbaria, crematories, chapels, mausoleums and garden crypts and may include administrative offices when operated in conjunction with and within the boundary of such cemetery.
- 11.1. "Child day care facility" means a facility which provides nonmedical care to children under eighteen years of age in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four-hour-a-day basis. Child day care facilities include day care centers and family day care homes.
12. Convalescent Home. See "Rest home."
- 12.1. "Day care center" means a child day care facility other than a family day care home and includes infant centers, preschools, nurseries and extended day care facilities.
- 12.2. "Day care home, family" means a home which regularly provides care, protection and supervision of twelve or fewer children in the provider's own home for period of less than twenty-four hours per day while the parents or guardians are away.
- 12.3. "Day care home, small family" means a family day care home which provides care to six or fewer children including children who reside at home.
- 12.4. "Day care home, large family" means a family day care home which provides care to seven to twelve children including children who reside at home.
13. "District" means a portion of the city within which certain uses of land and buildings are permitted and within which certain yards and other open spaces are required and certain height limits are established as set forth and specified in this title.
14. "Dwelling" means a building or portion thereof, but not including a house trailer or mobile home, used exclusively for residential occupancy including one-family, two-family, multiple-family dwelling units and dwelling groups. See dwelling unit.
15. "Dwelling, one-family" means a building designed exclusively for the use and occupancy by one family and necessary employees of such family and containing but one kitchen.
16. "Dwelling, two-family" means a building designed for the use and occupancy by not more than two families living independently of each other and necessary employees of such families and containing not more than two kitchens.
17. "Dwelling, multiple-family" means a building designated to house three or more families living independently of each other.

- 17.5 "Dwelling, secondary" means a room or suite of rooms constructed or adapted within or onto a one-family (i.e., principal) dwelling being an integral part thereof, and designed for the use and occupancy by a person or persons living independently from the one family dwelling occupants. A secondary dwelling shall be subordinate to the principal dwelling.
18. "Dwelling group" means a group of two or more detached or semidetached one-family or two-family dwellings occupying a lot under one ownership and having any yard or court area in common, but not including motels.
19. "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more persons living together as a single housekeeping unit, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
20. "Drive-in establishment" means an establishment where the occupants of motor vehicles may watch, purchase or receive goods or services.
21. "Emergency homeless shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.
22. "Family" means one or more persons living together as a single housekeeping unit in a dwelling unit.
23. "Fence" means any structural device forming a physical barrier by means of wood, mesh, chain, brick, stake or other similar materials.
24. "Floor area ratio (F.A.R)" means the ratio of the maximum permissible floor area to the property of land area in square feet.
25. "Fortunetelling" means the telling of fortunes, forecasting of futures, or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult, psychic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind reading, telepathy, or other craft art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic of any kind or nature.
26. "Garage, private" means a building or portion of a building in which only motor vehicles intended to be used by the tenants of a building or buildings on the premises are stored or kept.
- 26.1. "Gasoline service station" means a business where the principal use involves the retail sale of gasoline or other automotive engine fuel, motor oil and other lubricants. It may also include the sale of minor accessories or parts, (e.g., windshield wiper blades, tires, fan belts, replacement bulbs or similar accessories) and services (e.g., engine tune-up, smog certificate testing, repairing tires or similar services).
- 26.2. "Gasoline service station, full-service" means a gasoline service station where gasoline dispensing at one or more pumps on the premises is performed by an attendant.
- 26.3. "Gasoline service station, self-service" means a gasoline service station where customers must dispense gasoline themselves.

- 26.4. "Gasoline service station, accessory use" means a gasoline service station accompanied by uses not expressly authorized as a part of the use, including: food markets, snack shops, flower stores, washing or polishing with automatic equipment, auto or truck rentals, auto towing or uses of similar character. The following uses are not allowed as accessory uses: automobile body repairs and paint and the storage of inoperative autos.
27. "Home occupation" means the conduct of a business, art or profession, the offering of a service, or the handcraft manufacture of products in a dwelling in accordance with the regulations prescribed in Chapter 17.36 Home Occupations.
28. "Hotel, motel, motor hotel or inn" means an establishment consisting of one building or group of buildings containing lodging accommodations designed for use by transients, travelers or temporary guests.
29. "Junkyard" means the use of more than two hundred square feet of the area of any lot for a period of more than three months for any scrap materials or for the dismantling or wrecking of automobiles or other vehicles or machinery, whether for sale or storage.
30. "Lot" means a distinct portion of land, as in the smallest division of a block, that is used or capable of being used under the provisions of this title.
31. "Lot coverage" means the area of the property occupied above grade by the principal building or buildings and accessory buildings. For purposes of determining the lot coverage, any lot area used as a private street shall be excluded from the lot area for purposes of computing the lot coverage.
32. "Lot frontage" means the boundary of a lot along a public street. For corner lots, the owner may designate either street boundary as the front lot line. Where conflict exists, the direction in which the front of the building faces shall be considered the front yard and shall be subject to applicable requirements.
33. "Lot, through" means a lot having frontage on two streets, but not including corner lots. Both street lines shall be considered front lot lines.
34. "Massage parlor" means any establishment having a fixed place of business where, for consideration, an individual, firm, association, partnership, corporation, joint venture or combination of individuals engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massages, baths or health treatments involving massages or baths as regular functions, including any business where a function of such business is to engage in or carry on massage not on a fixed location, but at a location designated by the customer, massage technician or other person.
35. "Nonconforming use" means the lawful use of land or a use within a building existing at the effective date of the ordinance codified in this section or amendments thereto which does not conform to the provisions of the district in which such use is located.
36. Nursing Home. See "Rest home."
37. Open Space, Required. The required open space is the arithmetical difference between the total lot area and the required lot coverage. It shall include any front, side or rear yard, court, driveway or open off-street parking area at grade level provided about a building which meet the requirements of the ordinance codified in this section. See lot coverage.
38. "Open space, usable" means a common or private outdoor area designated for outdoor living, recreation, domestic use or landscaping. Such area may be on the

ground or on a roof, porch, deck, court, balcony or may include an open off-street parking area or driveway providing the driveway is not a means of vehicular access to an adjacent lot or building site.

39. "Pawnshop" means any establishment in which goods and materials pledged as security for loans on personal property are retail marketed. Establishments which trade only clothing and accessories are excluded from this definition and are categorized with other retail commercial uses.
40. "Person" means an individual, city, county, federal government, partnership, corporation, cooperative, association, trust or other legal entity.
41. "Professional office" means the office of persons qualified to practice dentistry, medicine, law, architecture, engineering, accounting and similar professions.
42. "Rest home" means a building in which nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons.
43. Roominghouse. See "Boardinghouse."
44. "Single housekeeping unit" shall mean one person or two or more individuals living together sharing household responsibilities and activities, which may include, sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.
45. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade such basement or cellar shall be considered a story.
46. "Street" means a vehicular thoroughfare which affords principal means of access to abutting property, including avenue, place, way, circle, drive, lane, boulevard, highway, road and any other thoroughfare except an alley as defined in this section.
47. "Structure" means anything which is built or constructed, such as an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
48. "Structural alteration" means any change in the supporting members of a building, such as bearing walls, foundations, lateral supports, columns, beams or other building elements which add to the structural stability of the buildings.
49. "Supportive housing" means housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260, and that is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community
50. "Tanning salon" means an establishment having a fixed place of business where, for consideration, customers are provided access to any tanning device as defined in Section 22702 of the California Business and Professions Code.
51. "Target population" means adults with low-income having one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided under the

Lanterman Developmental Disabilities Services Act Division 4.5 (commencing with Section 4500 of the Welfare and Institutions Code) and may, among other populations, include families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, or homeless people.

- 52. "Tattoo establishment" means any establishment in which a tattoo is inscribed upon the human body, a tattoo being an indelible mark or figure fixed upon the body by insertion of pigment under the skin or by the production of scars.
- 53. "Transitional Housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted units to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.
- 54. "Trailer court" means land used or intended to be used, let or rented for occupancy by one or more occupied trailers or by two or more unoccupied trailers or moveable dwellings, rooms or sleeping quarters of any kind.
- 55. "Use" means the purpose for which land or a building thereon is designed, arranged, intended or for which it is or may be occupied or maintained.
- 56. "Use, principal" means the main use of land or buildings as distinguished from a subordinate or accessory use.
- 57. "Yard" means any open space which is unoccupied or unobstructed, except as may be permitted by this title, which surrounds a building site.
- 58. "Yard, front" means a yard extending across the full width of the lot lying between the street line and the nearest vertical support or wall of a building or an enclosed or covered porch. Where conflict exists, the direction in which the front of the building faces shall be considered the front yard and shall be subject to applicable requirements.
- 59. "Yard, rear" means a yard extending across the full width of the lot lying between the rear line of the lot and nearest vertical support or wall of a building or an enclosed or covered porch.
- 60. "Yard, side" means a yard extending from the side lot line to the nearest vertical support or wall of a building and extending from the front yard to the rear yard.

SECTION 2: Section 17.34.020 of the Daly City Municipal Code is hereby amended to read as follows:

Section 17.34.020 Schedule of parking requirements

- A. Single-Family Residential - two spaces per unit;
- B. Duplex (two-family residential) - two spaces per unit totaling four spaces per structure;
- C. Emergency Homeless Shelter - 0.75 covered or uncovered parking spaces per employee;
- D. Multiple-Family Residential - one space for each studio unit. One and one-half spaces for each one bedroom unit. Two spaces for each two bedroom or larger unit. Apartment complexes designed and intended for the exclusive occupancy of low income elderly

- persons (e.g., subsidized apartment complexes), shall provide at least one-fourth the normally required amount of off-street parking. Housing complexes designed and intended for the exclusive occupancy of low income persons or families other than the elderly shall provide at least three-fourths the normally required number of spaces;
- E. Mobilehome Parks - one space for each mobile home, said space to be located on the individual trailer site, plus one space per site for guest parking, the latter to be grouped in common area;
 - F. Boardinghouses - one space per rentable room plus one space for every two hundred square feet of kitchen area and administrative office space;
 - G. Hotels and Motels - one space per room plus one space for each three hundred feet of lobby area and administrative office space;
 - H. Nursing Homes, Convalescent Hospitals and Similar Uses - one space for every four hundred square feet of gross floor area;
 - I. Clubs, Lodges and Other Assembly Buildings, Including Churches and Theaters - one space for every six permanent seats in the main auditorium. If there are to be no permanent seats, then the off-street parking requirement shall be one space for every two hundred square feet of gross building floor area;
 - J. Banks and Business or Professional Offices - one space for each three hundred square feet of gross floor area up to twenty-one thousand feet; thereafter, one space for each two hundred square feet of gross floor area;
 - K. Fast Food Restaurant or Drive-in - one space per seventy-five square feet of gross floor area;
 - L. Other Restaurants - one space per one hundred twenty-five square feet of gross floor area;
 - M. Mortuary - one space for each three hundred fifty square feet of gross floor area;
 - N. Bowling Alley - two and one-half spaces for each bowling lane;
 - O. Service Station - five spaces;
 - P. Service Station with Accessory Use - two spaces for the service station; retail accessory use will require an additional one space per three hundred square feet of gross floor area. Car wash accessory uses will require an additional five spaces. Automated car wash queuing lanes may be considered for inclusion in the required parking under a use permit, or at the discretion of the economic and community development director when a use permit is not required if it can be demonstrated that the queuing lanes would not encroach into the drive aisles, ROW or designated parking areas. If more than one accessory use is proposed, then up to fifty percent of the fuel dispensary parking spaces may be considered for inclusion in the required parking under a use permit, or at the discretion of the economic and community development director when a use permit is not required;
 - Q. Self-service gasoline station - two spaces;
 - R. New and/or Used Car Sales - one space per two thousand square feet of total site area;
 - S. Auto Service and Repair - one space per seven hundred fifty square feet of gross floor area;
 - T. Bulky Merchandise Retail Stores (e.g., furniture) - one space per seven hundred fifty square feet of gross floor area;
 - U. All Other Retail or Service Commercial - one space for each three hundred square feet of gross floor area up to twenty-one thousand square feet; thereafter, one space for each two hundred square feet of gross floor area;
 - V. Manufacturing, Public Utility, Warehousing - one space per fifteen hundred square feet of gross site or building area, whichever is greater, unless a more appropriate standard for a specific use is determined through use permit procedures;

- W. Day Care Centers, including Preschools, Nursery Schools and Private Elementary Schools - one space for each employee, plus one space for every ten children;
- X. For Uses Not Listed - the city planner shall establish a parking standard based upon the requirements for similar uses. If the city planner is unable to establish a parking requirement in this manner, the parking standard shall be determined by the planning commission.

SECTION 3: Section 17.45.120 of the Daly City Municipal Code is hereby amended to read as follows:

Section 17.140.120 Applicability.

- A. *Major Design Review* applications shall be reviewed by the design review committee, subject to the provisions in Section 17.45.020A. Major design review approval shall be required for the following projects:
 - 1. Residential projects consisting of four or more dwelling units;
 - 2. New commercial projects which exceed two thousand square feet in area or which are located on lots of two thousand five hundred square feet in area or greater;
 - 3. All new industrial projects where the improvements are visible from off-site;
- B. *Minor Design Review* applications consist of projects that are processing concurrent entitlements that involve physical modification of structures or site improvements. Minor design review applications shall be reviewed in conjunction with the additional entitlements by the city council, subject to the provisions of Section 17.45.020.C. Minor design review approval shall be required for projects including, but not limited to the following:
 - 1. Projects subject to the Mission Street urban design plan, the Colma BART Station area specific plan, the Peninsula Gateway specific plan, the Sullivan Corridor specific plan area or within the city's resource protection district.
- C. *Administrative Design Review* applications shall be reviewed and approved by the director of economic and community development. Administrative design review approval shall be required for the following classes of projects:
 - 1. Multifamily residential, commercial, office or industrial buildings incorporating exterior modifications that include any of the following: mechanical equipment visible from the exterior; repainting of the exterior of all or of the majority of building in a different pattern, color scheme or design; balconies, awnings or sunshades.
- D. Emergency homeless shelters in the C-R/O zone shall be exempt from design review.

SECTION 4: Chapter 17.52 of the Daly City Municipal Code is hereby added to read as follows:

Chapter 17.52 – DENSITY BONUS

Sections:

17.52.010	Purpose.
17.52.020	Applicability.
17.52.030	Definitions.
17.52.040	Incentives and Concessions
17.52.050	Waivers and Modifications of Development Standards
17.52.060	Application Procedure
17.52.070	Density Bonus Agreement

17.52.010 Purpose.

The purposes of this Chapter are as follows:

- A. To implement the housing element of the Daly City General Plan, which identifies increasing affordable housing production as a primary objective;
- B. Providing increased residential densities for projects that guarantee that a portion of the housing units will be affordable to very low, low, or moderate-income households, provide senior citizen housing, or include child care facilities.
- C. To comply with the State density bonus law (California Government Code section 65915);

17.52.020 Applicability.

The provisions of this section apply to the construction of five or more housing units that satisfy one or more of the following criteria:

- A. At least ten percent of the total units are designated for low income households.
- B. At least five percent of the total units are designated for very low income households.
- C. A senior citizen housing development, as defined in Section 51.3 and 51.12 of the Civil Code.
- D. At least ten percent of the total units in a condominium project as defined in subdivision (f) of, or in a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, are designated for moderate income households, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

17.52.030 Definitions.

The following terms are defined for purpose of this Chapter:

- A. "Density bonus" means a density increase, in the amount prescribed by Government Code section 65915, over the otherwise maximum allowable residential density as of the date the application is accepted as complete.
- B. "Low income household" has the meaning set forth in Health and Safety Code section 50079.5 and is a household whose income is equal to or less than eighty percent of the area median income, as published by the California Department of Housing and Community Development.
- C. "Moderate income household" has the meaning set forth in Health and Safety Code section 50093 and is a household whose income is equal to or less than one hundred twenty percent of the area median income, as published by the California Department of Housing and Community Development.

- D. "Senior citizens" means qualifying residents as defined in Section 51.3 of the Civil Code.
- E. "Very low income household" has the meaning set forth in Health and Safety Code section 50105 and means a household whose income is equal to or less than fifty percent of the area median income, as published by the California Department of Housing and Community Development.

17.52.040 Incentives and Concessions.

- A. When an applicant seeks a density bonus and/or concessions as prescribed by Government Code section 65915, the City will grant the density bonus and number of incentives or concessions required by that section unless it makes one of the following findings:
 - (1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.3 of the Health and Safety Code, or for rents for the targeted units to be set as specified in Section 65915(c) of the Government Code.
 - (2) The concession or incentive would have a specific adverse impact, as defined in Government Code Section 65589.5 (d)(2), upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
- B. The following incentives and concessions are deemed not to have the adverse impact set forth in section 17.47.1.040(A)(2) above:
 - (1) Reduced setbacks so long as the project remains consistent with the City's General Plan and any applicable design guidelines;
 - (2) Increased maximum lot coverage so long as the project remains consistent with the City's General Plan and any applicable design guidelines;
 - (3) Increased maximum building height so long as the project remains consistent with the City's General Plan and any applicable design guidelines;
 - (4) Reduction in parking standards beyond that set forth in Government Code section 65915(p); and.
 - (5) In addition to the additional density bonus provided in accordance with Government Code section 65915(g) for land donations within ¼ mile of an applicant's project, provision of the additional density bonus set forth in Government Code section 65915(g) for land dedicated to the City that is located within ½ mile of the applicant's project so long as the applicant demonstrates to the City's satisfaction that building the requisite number of affordable units on-site is infeasible and there is an identified source of funding for the very low income units.
- C. The City will not, however, provide any direct financial assistance, waive fees or dedication requirements, or provide publicly owned land for a housing development as an incentive or concession.

17.52.050 Waivers and Modifications of Development Standards.

- A. Proposal. In accordance with Government Code section 65915(e), an applicant may propose waiver or modification of development standards if they would physically

preclude the construction of a development meeting the criteria of section 65915(b) at the densities or with the concessions or incentives permitted by section 65915.

B. Grounds for Denial. In accordance with Government Code section 65915(e), the City may deny an applicant's request to waive or modify the City's development standards in any of the following circumstances:

- (1) The application does not conform with the requirements of this section or Government Code section 65915.
- (2) The applicant fails to demonstrate that the City's development standards physically preclude the utilization of a density bonus on a specific site.
- (3) The waiver or reduction would have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2), upon health, safety, or the physical environment, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- (4) The waiver or reduction would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

17.52.060 Application Procedure.

A. An applicant requesting a density bonus, incentive or concession, or waiver or modification of development standards, in accordance with this section must submit the request with any application for a planning approval. The request must include the following information:

- (1) the number of proposed affordable housing units;
- (2) the specific incentive(s) or concession(s) sought, if any;
- (3) the specific waiver or modification to development standards sought, if any;
- (4) if seeking an incentive or concession, documentation required by the Director of Economic and Community Development, or his or her designee, regarding the necessity of the incentive or concession in order to provide affordable housing costs or rents;
- (5) if seeking a waiver or modification of development standards, documentation required by the Director of Economic and Community Development, or his or her designee, regarding the necessity of the waiver or modification, including documentation demonstrating that the City's development standards physically preclude the utilization of a density bonus;
- (6) if requesting a density bonus based on land donation in accordance with Government Code section 65915(g), the applicant must submit information sufficient to permit the City to determine that the proposed donation conforms with the requirements of section 65915(g) and this Code;
- (7) if requesting a density bonus based on the provision of a child care facility, the applicant must:
 - (a) provide the location of the proposed child care facility and the proposed operator.
 - (b) agree to operate the child care facility for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable;
 - (c) agree to have contracted with a child care facility operator for operation of the child care facility before the first building permit is issued; and

- (d) agree that the child care facility will be in operation when the first certificate of occupancy is issued.
- B. Action on Application. The body with approval authority for the planning approval sought will approve, deny or modify the incentive or concession as a part of the overall project approval.

17. 52.070 Density bonus agreement.

Prior to the issuance of a building permit for any dwelling unit in a development for which a density bonus has been awarded, the developer must enter into the City's standard density bonus agreement. The density bonus agreement will run with the land, be binding upon successors in interest, and be recorded with the County Recorder.

SECTION 5: Chapter 17.54 of the Daly City Municipal Code is hereby added to read as follows:

**Chapter 17.54 – REASONABLE ACCOMMODATION IN
DEVELOPMENT REGULATIONS**

Sections:

- 17.54.010 Purpose**
- 17.54.020 Eligibility for Accommodation Request**
- 17.54.030 Notice to the Public of Availability of Accommodation Process**
- 17.54.040 Requesting Reasonable Accommodation**
- 17.54.050 Reviewing Authority**
- 17.54.060 Required Findings**
- 17.54.070 Written Decision**
- 17.45.080 Appeals**

17.54.010 Purpose.

The purpose of this Chapter is to provide individuals with disabilities or developers of housing for people with disabilities, flexibility in the application of land use, zoning, and building regulations, policies, practices, and procedures, or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities.

17.54.020 Eligibility for Accommodation Request.

An individual with a disability is someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment. A request for reasonable accommodation may be made by any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities, when the application of a land use, zoning or building regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

17.54.030 Notice to the Public of Availability of Accommodation Process

- A. In order to make housing available to an individual with a disability, any eligible person as defined in Section 17.54.020 may request a reasonable accommodation in land use, zoning and building regulations, policies, practices and procedures.
- B. Requests for reasonable accommodation shall be in writing and provide the following information:
 - (1) Name and address of the individual(s) requesting reasonable accommodation ;
 - (2) Name and address of the property owner(s);
 - (3) Address of the property for which accommodation is requested;
 - (4) Description of the requested accommodation and the regulation(s), policy or procedure for which accommodation is sought; and
 - (5) Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling.
- C. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. A request for reasonable accommodation in regulations, policies, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- E. If an individual needs assistance in making the request for reasonable accommodation, the jurisdiction will provide assistance to ensure that the process is accessible.

17.54.050 Reviewing Authority

- A. Requests for reasonable accommodation shall be reviewed by the Director of the Department of Economic and Community Development ("Director"), using the criteria set forth in Section 17.54.060.
- B. The Director shall issue a written decision on a request for reasonable accommodation within thirty (30) days of the date of the application and may either grant, grant with modifications, or deny a request for reasonable accommodation in accordance with the required findings set forth in Section 17.54.060.
- C. If necessary to reach a determination on the request for reasonable accommodation, the Director may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the thirty (30) day period to issue a decision is stayed until the applicant responds to the request.

17.54.060 Required Findings

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:

- (1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
- (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
- (3) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
- (4) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program.

17.54.070 Written Decision

- A. The written decision on the request for reasonable accommodation shall explain in detail the basis of the decision, including the reviewing authority's findings on the criteria set forth in Section 17.54.060. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. The notice of decision shall be sent to the applicant by certified mail.
- B. The written decision of the Director shall be final unless an applicant appeals it to the City Council.
- C. If the Director fails to render a written decision on the request for reasonable accommodation within the thirty (30) day time period allotted by Section 17.54.050, the request shall be deemed granted.
- D. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

17.54.080 Appeals

- A. Within thirty (30) days of the date of the Director's written decision, an applicant may appeal an adverse decision to the City Council. Appeals from the adverse decision shall be made in writing.
- B. If an individual needs assistance in filing an appeal on an adverse decision, the jurisdiction will provide assistance to ensure that the appeals process is accessible.
- C. All appeals shall contain a statement of the grounds for the appeal. Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection.
- D. Nothing in this procedure shall preclude an aggrieved individual from seeking any other state or federal remedy available.

SECTION 6: Zoning Reclassification. The zoning as designated upon the "Official Zoning Map" of the City of Daly City, as adopted by Daly City Ordinance 635, and thereafter amended from time to time, is hereby changed as to the parcel or parcels identified on the attached Exhibit "A", and that in accordance with Title 17 of the Daly City Municipal Code, the zoning for the real property hereinafter described is hereby amended so as to change the zone classification of the property from PD46 to PD 46A. The text of PD 46A shall be the same as that text adopted in Ordinance 1191 on December 13, 1993, except that the *Land Use and Density* section of Exhibit "B" associated with the Planned Development zone shall be amended to read as follows: "The

permitted use on the site shall comply with the requirements of the Medium Density Residential Land Use Designation. Furthermore, the *Site Plan Components* section, which presently states, "Principal Buildings – The project shall consist of three (12) buildings, three stories over parking garages. The Buildings shall be sited in accordance with plans approved by the Planning Division," shall be repealed in its entirety.

SECTION 8: Zoning Reclassification. The zoning as designated upon the "Official Zoning Map" of the City of Daly City, as adopted by Daly City Ordinance 635, and thereafter amended from time to time, is hereby changed as to the parcel or parcels identified on the attached Exhibit "B", and that in accordance with Title 17 of the Daly City Municipal Code, the zoning for the real property approximately 1.02 acres is hereby amended so as to change the zone classification of the property from ID Interim District to R-3 Multiple Family Residential District as such zones are designated and defined by Ordinance 635, Daly City Municipal Code Title 17.

SECTION 9: Chapter 17.08 of the Daly City Municipal Code (R-1 Single Family Residential District Land Use Regulations) is hereby amended to read as set forth in Exhibit "C" to this Ordinance.

SECTION 10: Chapter 17.21.030 of the Daly City Municipal Code (C-R/O Specific Plan Designations and Regulations) is hereby amended to read as set forth in Exhibit "D" to this Ordinance

SECTION 11: Environmental Determination. The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption Classes 1, 4, 5, 7, 8, 9, and or 21 of the CEQA Guidelines (Title 14, *California Code of Regulations*, Sections 15301-15329).

SECTION 12: Publication/Summary Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This ordinance shall become effective thirty (30) days from and after its adoption.

SECTION 13. Severability: If any section, subsection or sentence of this Ordinance is found by a court of competent jurisdiction to be invalid or unlawful, the City Council finds and declares that the remainder of this ordinance would be and is enforceable and would have been adopted notwithstanding the finding of invalidity as to any section, subsection or sentence.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
AMENDING TITLE 17 OF THE MUNICIPAL CODE RE: ZONING ORDINANCE

Introduced this 12th day of May, 2014.

Passed and adopted as an Ordinance of the City of Daly City at a special meeting of the City Council of the City of Daly City held on the 27th day of May, 2014, by the following vote:

AYES, Councilmembers: Buenaventura. Guingona. Klatt

Torres. Canepa

NOES, Councilmembers: None

ABSENT, Councilmembers: None


CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

DAVID J. CANEPA
MAYOR OF THE CITY OF DALY CITY