

**ORDINANCE NO. 2024-003**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING SECTIONS 20.04.030, 20.09.090, AND 20.21.340 OF THE CHINO MUNICIPAL CODE REGARDING OVERLAY DISTRICTS FOR AFFORDABLE HOUSING AND SENIOR HOUSING PROJECTS.**

The City Council of the City of Chino, California, does hereby ordain as follows:

Section 1. A new subsection (D) is hereby added to Section 20.04.030 (Use regulations) of the Chino Municipal Code and shall read as follows (additions in red):

***D. Uses by right.***

1. Notwithstanding the other provisions of this Section 20.04.030, and in accordance with Government Code Section 65583.2(c), as may be amended, a housing development project in which at least 20 percent of the units are affordable to lower-income households shall be a use by right on the following sites:
  - a. *Nonvacant Sites.* A nonvacant site that meets the following requirements:
    - i. The site is designated in the Sites Inventory of the 2021-2029 Housing Element Update as accommodating a portion of the regional housing need for lower-income households;
    - ii. The site was included in the Sites Inventory in a Housing Element for a prior Housing Element planning period; and
    - iii. The site was not approved to develop a portion of the City's housing need during the previous planning period when the site was in the Sites Inventory.
  - b. *Vacant Site.* A vacant site that meets the following requirements:
    - i. The site is designated in the Sites Inventory of the 2021-2029 Housing Element Update as accommodating a portion of the regional housing need for lower-income households;
    - ii. The site was included in the Sites Inventory in a Housing Element for two or more consecutive prior Housing Element planning periods; and
    - iii. The site was not approved to develop a portion of the City's housing need during the previous planning periods when the site was in the Sites Inventory.
2. The projects described in subsection (1) shall not be required to obtain any discretionary permit, but shall be subject to the review procedures in Section 20.09.090(K), except that neither the design review nor the site approval shall be considered a "project" for purposes of the California Environmental Quality Act.
3. For purposes of this subsection (d), the following terms have the following meanings:

- a. "Affordable to lower-income households" means that:
  - i. The units shall only be rented or sold to lower-income households, as defined in Health and Safety Code Section 50079.5;
  - ii. Regardless of whether the applicant is seeking a density bonus, the applicant shall comply with the requirements in Government Code Section 65915(c)(1) for rental units and with the requirements in Government Code Section 65915(c)(2) for for-sale units.
- b. "Housing development project" shall have the meaning given in Government Code Section 65589.5(h)(2).
- c. "Sites Inventory" means the inventory of sites in the City suitable for residential development that is included in the City's Housing Element, as further described in Government Code Section 65583.2. The Sites Inventory in the City's 2021-2029 Housing Element Update is in Tables B-6 and B-7 of the Housing Element.
- d. "Use by right" means that the project shall not require a conditional use permit, planned unit development permit, or other discretionary review or approval that would constitute a "project" for purposes of the California Environmental Quality Act. However, any subdivision of the site shall be subject to all laws, including, but not limited to, the Subdivision Map Act and Title 16 of this code. Projects that are a use by right shall be subject to design review, but such design review shall not constitute a "project" for purposes of the California Environmental Quality Act.

Section 2. Section 20.09.090 (Overlay districts for affordable housing) of the Chino Municipal Code is hereby revised to read as follows (additions in **red**; deletions in **bold strikethrough**):

**20.09.090 - Overlay districts for affordable housing.**

- A. *Purpose and intent.* The purpose of the overlay districts for affordable housing - the affordable housing overlay (AHO) district and the mixed use overlay (MUO) district - is to promote the development of affordable housing for low and very low-income households in specific areas identified in the general plan at densities of up to thirty dwelling units per acre if affordability requirements established in this section are met. More specifically, the AHO and MUO allow residential uses where they would not otherwise be allowed and provide for additional density in return for projects providing more affordable housing. The AHO is intended for standalone affordable housing projects, while the MUO provides for mixed use development with affordable housing either on upper floors or in separate buildings. This section also provides the residential development community two alternatives for construction of affordable housing within market-rate development and offers a streamlined process for administrative review of qualifying projects with affordable housing using checklists and objective standards as required by state law.
- B. *Relation to base zoning.* The AHO and MUO district regulations shall apply in the case of a conflict with the base zoning district regulations when a housing project is proposed. However, when an applicant proposes only non-residential uses, then only the base zoning

district land use regulations and development standards apply. The AHO and MUO regulations and development standards only apply to proposed housing projects.

- C. *Permitted uses.* Table 20.09-4 identifies residential land uses permitted in the AHO and MUO districts in addition to the uses that are permitted within the existing base zoning district.

TABLE 20.09-4: ADDITIONAL LAND USES PERMITTED IN AHO AND MUO DISTRICTS

Uses	District	Additional Regulations
	AHO and MUO	
Residential Uses		
Accessory Dwelling Units	P	Section 20.11.020
Multiple-Family Dwellings	P	
Senior Housing Projects	P	Section 20.21.340 <del>with additional density allowed for affordable housing under criteria established in this section</del>
Warehousing and Storage		
Public Storage	C - MUO only	Sections 20.21.210 and 20.09.090(E)(4)

- D. *Required density and increased density for affordable housing.*

1. *Minimum and maximum density.*

- Rental projects. The maximum density for residential development with rental units in the AHO and MUO districts shall be twenty-six units per adjusted gross acre unless a project qualifies for additional density by providing more affordable housing pursuant to subsection (2) below or qualifies for additional density under state law under subsection (3) below, or both. ~~The minimum density shall be twenty-six units per adjusted gross acre.~~
- For sale projects. The maximum density for residential development with for-sale units in the AHO and MUO districts shall be thirty units per adjusted gross acre provided that at least three percent of the units are available for purchase by moderate income households at an affordable purchase price. ~~The minimum density shall be twenty-six units per adjusted gross acre.~~
- Minimum density. The minimum residential density in the AHO and MUO districts shall be twenty-six units per adjusted gross acre.**

2. *Additional density for affordable rental housing.* An increase in the maximum density is allowed, as shown in Table 20.09-5, for qualifying residential development with rental units if the percentage of low-income units meets or exceeds the percentages shown, provided that the maximum density shall not exceed thirty units per adjusted gross acre.

TABLE 20.09-5: ADDITIONAL DENSITY FOR QUALIFYING AFFORDABLE RENTAL HOUSING PROJECTS IN AHO AND MUO DISTRICTS

Maximum Allowable Density (Units per Adjusted Gross Acre)					
	26	27	28	29	30
<b>Percent Affordable Units Required in Rental Projects:</b>					
Low Income Units	9	10	11	12	13

3. *Additional density under state law.* Applicants also may be eligible for a density bonus, incentives, and/or concessions under the state density bonus law, the Affordable Housing and High Road Jobs Act of 2022, and other applicable state laws.

E. *Additional land use regulations for MUO district.*

1. *Types of mixed use allowed.* Both horizontal and vertical mixed use development shall be allowed in the MUO district.
  - a. Horizontal mixed use development allows a range of uses adjacent to one another, either in separate buildings or parcels. Individual buildings may share project components, such as parking, serving, loading, and utility areas.
  - b. Vertical mixed use allows for a mix of uses within a single building where non-residential uses occupy the ground floor and residential uses are on the upper levels. A vertical mixed use project may have surface parking, subterranean parking decks, and/or at grade and above grade parking decks.
2. *Minimum amount of ~~retail and service uses~~ residential use required in a mixed-use project.* In a mixed use project, at least ~~ten~~ **fifty** percent of the gross floor area shall be reserved for **residential use**. ~~and occupied by retail shops, eating and drinking establishments, retail banks, financial and business services, or businesses offering personal services. If the project is within or adjacent to a shopping center or regional retail complex, this requirement for on-site retail uses shall be reduced to five percent.~~
3. *One hundred percent residential use allowed.* Projects developed in an MUO district may be one hundred percent residential. No minimum percentage of non-residential uses is required.
34. *Active and pedestrian-oriented frontages required.* Along the primary building frontage, active ground floor uses are required in mixed use buildings with residential uses above commercial uses for at least sixty percent of street-facing spacing. These may include retail shops, eating and drinking establishments, retail banks, financial and business services, personal services, and offices for walk-in clientele, such as employment agencies, insurance offices, real estate offices, travel agencies, and offices for elected officials. For residential only buildings along a primary building frontage, an active frontage with a pedestrian orientation can include windows and glass doors, stoops and steps, covered entries, and windows providing views into active space within the building, such as lobbies and gyms. The director of development services also may allow these active and pedestrian-oriented frontages to be provided along private streets, interior walkways, and around plazas and courtyards

within the interior of a mixed use project rather than on exterior frontages facing arterial streets.

**45. *Public storage facilities.*** In addition to the requirements of Section 20.21.210, public storage shall comply with the following standards:

- a. Minimum site size. Public storage facilities are only allowed within mixed use development on sites with of five acres or more.
- b. Setbacks. Public storage facilities shall be setback a minimum of fifty feet from front and street side property lines.
- c. Maximum building height. If freestanding, the maximum building height for a public storage facility shall not exceed the building height of an adjacent residential only or mixed us building.
- d. Maximum floor area. The maximum floor area for public storage facilities on a site shall not exceed twenty-five percent of the gross floor area for all residential and non-residential uses.
- e. Exterior building materials. The exterior building materials, colors, and finishes of the public storage facility shall be the same as those used for residential and mixed use buildings on the project site to create a unified appearance.
- f. Building articulation. The building facades of public storage facilities that face streets or residential and mixed use buildings in a project shall include building projections or recesses, doorways or window trim, and other details that provide architectural articulation and visual interest.
- g. On-site management. On-site, twenty-four-hour management shall be provided, and the planning commission may establish specific hours of operation as a condition of approval of a conditional use permit for a public storage facility.

**F. *Development standards for the AHO district.*** All residential development in the AHO district shall comply with the development standards in Table 20.09-6 and the supplemental design standards following the table; and with the multiple-family residential design standards in Section 20.17.050 to the extent these are not superseded by the supplemental design standards following the table. If no housing is proposed, then non-residential development must comply only with the standards of the base zoning district with which the AHO district is combined and the commercial design standards in Section 20.17.070.

**TABLE 20.09-6: DEVELOPMENT STANDARDS FOR RESIDENTIAL DEVELOPMENT IN THE AHO DISTRICT**

Feature	Standard	Additional Regulations
<b>Site Requirements</b>		
Minimum Lot Area	10,000 sq. ft.	
Minimum Lot Width	100 feet	
Maximum Lot Coverage	65%	
Maximum Floor Area Ratio (non-residential space)	0.85	Note 1
Minimum Landscape Coverage	15%	See Chapter 20.19
Refuse Storage and Recycling		See Chapter 20.10.060

<b>Building Form and Location</b>		
Maximum Building Height	40 feet	Note 2
Minimum Setbacks:		
Front	15 feet	Notes 3, 4, and 5
Rear	10 feet; 15 feet if adjacent to a Residential or Industrial district	See also subsection (F)(1).
Interior Side	5 feet; 10 feet if adjacent to a Residential district	
Street Side	10 feet	Chapter 20.18 and Notes 3, 4, and 5
Minimum Building Separations	15 feet	
<b>Other Requirements</b>		
Off-street parking and loading for non-residential uses	See Chapter 20.18 (Parking)	
Street curb cuts	Note 6	

**Notes:**

[1] Additional FAR is allowed up to 1.25 for projects with affordable rental units. The amount of additional FAR shall be calculated based on the increase in density allowed for qualifying projects meeting affordable housing criteria. For example, if a project receives a one unit per acre increase in density, then it receives a 0.125 increase in allowable FAR.

[2] Additional height is allowed up to 45 feet for lots with at least 100 feet of primary street frontage to enable provision of sloped roofs and common open space for recreational facilities. The upper story above 40 feet shall be setback back an additional seven feet from the interior property line if the project is adjacent to a residential zoning district.

[3] The front setback may be reduced to 10 feet on the following streets: Riverside Drive and Central Avenue.

[4] A minimum 20-foot setback must be provided for garages and carports facing a street.

[5] Open or covered porches may be constructed in the front and street side setbacks to encroach no closer than 12 feet to the front property line and 5 feet to the street side property line.

[6] New street curb cuts are not allowed on lots with alley access unless approved by the director of development services and the city engineer to accommodate affordable housing units.

1. *Required side and rear yards for residential uses.* In order to provide light and air for residential units and additional separation for rooms that contain areas that require additional privacy considerations, the following minimum setbacks shall apply to any building wall containing windows and facing an interior side or rear yard. The required setbacks apply to that portion of the building wall containing and extending three feet on either side of any window.
  - a. For any wall containing living room or other primary room windows, a setback of at least fifteen feet shall be provided.
  - b. For any wall containing sleeping room windows, a setback of at least ten feet shall be provided.

- c. For all other walls containing windows, a setback of at least five feet shall be provided.
2. *Required building wall on designated streets.* Along Riverside Drive and Central Avenue south of Highway 60, building walls shall be constructed along or within ten feet of the front property line for a minimum of seventy percent of the primary street frontage and forty percent on secondary street frontages. This requirement may be waived by the director of development services upon finding that:
- a. Ground-floor residential uses are proposed, a minimum fifteen-foot setback is proposed, and substantial landscaping will be located between the build-to and ground-floor residential units as a buffer;
  - b. Entry courtyards, plazas, entries, or outdoor eating areas are located between the build-to line and the building and buildings are constructed at the edge of the courtyard, plaza, or dining area;
  - c. The building incorporates an alternative entrance design that creates a welcoming entry facing the street.
3. *Building entrances.*
- a. Principal building entries shall front upon the primary street or be in a visually-prominent location as determined by the director of development services.
  - b. Building entries shall be accented with features such as moldings, lighting, overhangs, or awnings.
4. *Building mass and scale.*
- a. To reduce upper-story building mass, floorplates for the third story and above shall not exceed eighty percent of the ground-floor floorplate. The director of development services may waive this requirement upon finding the architectural articulation of exterior walls and a sloped roof modulates the visual mass of the top of the building and avoids the appearance of a box-like structure.
  - b. Buildings that are more than one hundred fifty feet in length shall include a minimum two-foot vertical variation in height for at least fifty feet.
5. *Pedestrian orientation and accessible pedestrian facilities on designated streets.*
- a. Along Riverside Drive and Central Avenue south of Highway 60, all development on sites over two acres in size shall incorporate such features as plazas, interior walkways, canopies, arcades, paseos, ornamental gates, trellises, lighting, plant materials, seating, fountains, or other similar features, as appropriate, to support and enhance pedestrian spaces.
  - b. Outdoor pedestrian space shall be landscaped and shall include appropriate street furniture to encourage pedestrian activity.
  - c. Clearly marked pedestrian connections shall be provided between parking areas and buildings.
  - d. All sidewalks, crosswalks, courts, plazas and residential buildings shall be designed to be safe, accessible, and convenient for individuals of all abilities, whether travelling by foot, wheelchair, or other mobility aid, consistent with the city's adopted policy on accessible pedestrian facilities.

6. *Parking.*

- a. Parking areas are prohibited between the building and primary street edge. On-site parking shall be in the rear half of the site or within a parking structure.
- b. Multi-story parking structures within twenty-five feet of a street frontage shall be lined with foundation landscaping at the ground floor.
- c. Building siting and parking design shall maximize opportunities for shared parking, access entries, and driveways in order to minimize the number of curb cuts and thus limit possible conflict between pedestrians and automobiles.
- d. Whenever possible, vehicle access shall be provided from side streets and alleys to limit the number of driveways along arterial streets.

7. *Landscaping.*

- a. Street trees shall be included along all street frontages with multi-family housing development. Trees shall be selected from a list of city-approved trees and shall be approved by the director of development services prior to installation.
- b. Where pedestrian paths or walkways cross parking areas or driveways, the paths shall incorporate landscaping and decorative paving to define the pedestrian space.

- G. *Development standards for the MUO district.* All residential-only buildings and mixed use development with residential units in the MUO district shall comply with the development standards in Table 20.09-7 and the supplemental design standards following the table, and with the multiple-family residential design standards in Section 20.17.050 and the mixed use design standards in Section 20.17.060 to the extent these are not superseded by the supplemental design standards following the table. Non-residential development shall comply with the standards of the base zoning district with which the MUO district is combined and the commercial design standards in Section 20.17.070.

TABLE 20.09-7: DEVELOPMENT STANDARDS FOR RESIDENTIAL AND MIXED USE DEVELOPMENT IN MUO DISTRICT

Feature	Standard	Additional Regulations
<b>Site Requirements</b>		
Minimum Lot Area	10,000 sq. ft.	
Minimum Lot Width	100 feet	
Maximum Lot Coverage	80%	
Maximum Floor Area Ratio (non-residential space)	1.0	Note 1
Minimum Landscape Coverage	15%	See Chapter 20.19
Refuse Storage and Recycling		See Chapter 20.10.060
<b>Building Form and Location</b>		
Maximum Building Height	50 feet	Note 2
Minimum Setbacks (ft.):		



Front	10 feet; 15 feet if ground floor is residential	Notes 3 and 5
Rear	10 feet; 15 feet adjacent to a Residential District	See also subsection (G)(1).
Interior Side	0 feet; 10 feet adjacent to a Residential district	
Street Side	10 feet	Notes 3, 4, and 5
Minimum Building Separations	15 feet	
<b>Other Requirements</b>		
Off-street parking and loading for non-residential uses		See Chapter 20.18
Street curb cuts		Note 6

## Notes:

[1] Additional FAR is allowed up to 1.25 in mixed use development with affordable rental units. The amount of additional FAR shall be calculated based on the increase in density allowed for qualifying projects meeting affordable housing criteria. For example, if a project receives a one unit per acre increase in density, then it receives a 0.0625 increase in allowable FAR.

[2] Additional height is allowed up to 55 feet for lots with 100 feet of street frontage to enable provision of sloped roofs and common open space for recreational facilities. The upper story above 40 feet shall be setback back an additional seven feet from the interior property line if the project is adjacent to a Residential zoning district.

[3] A minimum 15 feet of front and street side setback shall be provided along primary and secondary arterial streets. A reduced front setback may be allowed on the following streets: Riverside, Central, and Euclid.

[4] A minimum 20-foot setback must be provided for garages and carports facing a street.

[5] Open or covered porches may be constructed in the front and street side setbacks to encroach no closer than 12 feet to the front property line and 5 feet to the street side property line.

[6] New street curb cuts are not allowed on lots with alley access unless approved by the director of development services and the city engineer to accommodate for affordable housing units.

1. *Required side and rear yards for residential uses.* In order to provide light and air for residential units and additional separation for rooms that contain areas that require additional privacy considerations, the following minimum setbacks shall apply to any building wall containing windows and facing an interior side or rear yard. The required setbacks apply to that portion of the building wall containing and extending three feet on either side of any window.
  - a. For any wall containing living room or other primary room windows, a setback of at least fifteen feet shall be provided.
  - b. For any wall containing sleeping room windows, a setback of at least ten feet shall be provided.
  - c. For all other walls containing windows, a setback of at least five feet shall be provided.

2. *Required building wall on designated streets.* Along Riverside Drive and Central Avenue south of Highway 60, building walls shall be constructed along or within ten feet of the front property line for a minimum of seventy percent of the primary street frontage and forty percent on secondary street frontages. This requirement may be waived by the director of development services upon finding that:
  - a. Ground-floor residential uses are proposed, a minimum fifteen-foot setback is proposed, and substantial landscaping will be located between the build-to and ground-floor residential units as a buffer;
  - b. Entry courtyards, plazas, entries, or outdoor eating areas are located between the build-to line and the building and buildings are constructed at the edge of the courtyard, plaza, or dining area;
  - c. The building incorporated an alternative entrance design that creates a welcoming entry facing the street.
3. *Required ground floor transparency for non-residential uses.* Exterior walls for non-residential ground-floor uses facing and within twenty feet of a front or street side property line shall include windows, doors, or other openings for at least sixty percent of the building wall area between two feet and eight feet above the sidewalk. No wall shall run in a horizontal plane more than twenty-five feet without an opening.
  - a. Openings fulfilling this requirement shall have transparent glazing and provide views into display areas, sales areas, work area, lobbies or other active spaces, and window displays shall be at least three feet in depth.
  - b. Parking garages are not required to meet these transparency requirements.
  - c. Alternatives to the building transparency requirement may be approved by the director of development services for uses that have unique operational requirements making windows or doors infeasible or for street-facing building walls that exhibit architectural relief and detail with landscaping that creates visual interest at the pedestrian level.
4. *Building entrances.*
  - a. Principal building entries shall front upon the primary street.
  - b. Building entries shall be accented with features such as moldings, lighting, overhangs, or awnings.
5. *Building mass and scale.*
  - a. To reduce upper-story building mass, floorplates for the fourth story shall not exceed eighty percent of the ground-floor floorplate. The director of development services may waive this requirement upon finding the architectural articulation of exterior walls and a sloped roof modulates the visual mass of the top of the building and avoids the appearance of a box-like structure.
  - b. Buildings that are more than one hundred fifty feet in length shall include a minimum two-foot vertical variation in height for at least fifty feet.
  - c. To maintain a human-scale at the street level where ground floor commercial space is provided, building storefront widths shall not exceed thirty feet without a recess or a break, which may be a building entry or a separate display window.
  - d. Minimum ground floor height for commercial uses, including retail shops, restaurants, and offices: fourteen feet.

6. *Pedestrian orientation and accessible pedestrian facilities on designated streets.*

- a. Along Riverside Drive and Central Avenue south of Highway 60, all development on sites over two acres in size shall incorporate features such as plazas, interior walkways, canopies, arcades, paseos, ornamental gates, trellises, lighting, plant materials, seating, fountains, or other similar features, as appropriate, to support and enhance pedestrian spaces.
- b. Outdoor pedestrian space shall be landscaped and shall include appropriate street furniture to encourage pedestrian activity.
- c. Clearly marked pedestrian connections shall be provided between parking areas and buildings.
- d. Encroachments into the public right-of-way are allowed for outdoor seating in conjunction with full-service restaurants and food retailers, provided a minimum six-foot wide walkway and pedestrian clear zone is maintained, and the outdoor eating area is contiguous with interior eating space and does not encroach into the public right-of-way of an adjacent business. An encroachment permit issued by the city is required, and a fee may be charged.
- e. All sidewalks, crosswalks, courts, plazas, and residential buildings shall be designed to be safe, accessible, and convenient for individuals of all abilities, whether travelling by foot, wheelchair, or other mobility aid, consistent with the city's adopted policy on accessible pedestrian facilities.

7. *Parking.*

- a. Long-term parking and residents' guest parking areas are prohibited between the building and primary street edge. On-site parking shall be in the rear of buildings in the back half of the lot or development site. Short-term drop-off spaces, short-term parking for retail shops, and a limited number of parking spaces for guests of residents may be allowed with valet service in courtyards and at building entries with approval of the planning commission.
- b. Multi-story parking structures within twenty-five feet of a street frontage shall be buffered with foundation planting or lined with commercial, retail, or residential use at the ground floor.
- c. Building siting and parking design shall maximize opportunities for shared parking, access entries and driveways in order to minimize the number of curb cuts and thus limit possible conflict between pedestrians and automobiles.
- d. Whenever possible, vehicle access shall be provided from side streets and alleys to limit the number of driveways along arterial streets.

8. *Landscaping.*

- a. Street trees shall be included along all street frontages of mixed-use development. Trees shall be selected from a list of city-approved trees and shall be approved by the director of development services prior to installation.
- b. Where pedestrian paths or walkways cross parking areas or driveways, the paths shall incorporate landscaping and decorative paving to define the pedestrian space.

H. *Open spaces standards for residential projects.* The open space requirements of the multiple-family residential design standards in Section 20.17.050 for private areas and

common areas shall apply to all proposed residential development and to residential units in mixed use development with the following modifications. Private areas shall consist of balconies, decks, patios, or fenced yards directly accessible from the residence. Common areas shall consist of landscaped areas, walks, patios, swimming pools, picnic and barbeque areas, playgrounds, children's play areas, playing courts, turf, rooftop areas, gym and fitness facilities, space for yoga, dance and instruction, or other such improvements as are appropriate to enhance the outdoor living environment of the development and to provide recreational facilities for residents. Landscaped courtyard entries that are oriented towards the public street and create a welcoming entry feature are also considered common areas. All areas not improved with buildings, parking, vehicular accessways, trash enclosures, and similar items or devoted to perimeter landscaping shall be developed as common areas with the types of attributes described above.

1. *Minimum amount of outdoor living area (private or common open space).* The minimum percentage of net lot area devoted to permanent open space is twenty percent, and the minimum area to be devoted to outdoor living area (private or common open space) shall be four hundred square feet per unit.
2. *Minimum amount of private open space.* The minimum amount of private open space shall be at least twenty-five percent of the amount of outdoor living area required. This space shall be provided on patios, decks or balconies shall be as follows:
  - a. Ground floor units: one hundred fifty square feet patio with a minimum horizontal dimension of ten feet or seventy-two square foot deck with a minimum horizontal dimension of six feet; and
  - b. Upper level units: seventy-two square feet with a minimum horizontal dimension of six feet.
3. *Minimum amount of common open space areas.* A minimum of sixty-five percent of the required outdoor living area shall be provided as common open space with a minimum horizontal dimension of twenty feet. This common open space shall be a well-designed, coherent area that is an essential component of the project's design, not merely space left over after the building mass is placed.
  - a. Landscape areas having minimum dimensions of less than twenty feet but at least five feet at any point which are contiguous with and an integral part of the common open space or are connected to the common open space by walkways, may be included in calculating the area of such space. Non-contiguous landscape areas proposed to be included shall not exceed twenty percent of the total area of common open space.
  - b. Up to one-half of covered patio areas designed to be commonly used by residents of a development may be included in calculation of common open space provided such area does not comprise more than twenty-five percent of the total common open space.
  - c. Up to fifteen percent of the required common open space area may be provided within a recreational building.
4. *Usability.* A surface shall be provided that allows convenient use for outdoor living and/or recreation. Such surface may be any practicable combination of lawn, garden, flagstone, wood planking, concrete, or other serviceable, dust-free surfacing. The maximum slope shall not exceed ten percent.

5. *Accessibility.*

- a. Private open space. The space shall be accessible to only one living unit by a doorway to a habitable room or hallway.
- b. Common open space. The space shall be accessible to the living units on the lot. It shall be served by any stairway or other accessway qualifying as an egress facility from a habitable room.

6. *Recreational facilities requirements.* In high density multi-family or mixed use development with a minimum of twenty-five dwelling units per gross adjusted acre, essential recreational facilities, as prescribed below, may be proposed in lieu of the requirements of major and minor facilities in Section 20.17.050(C) which require more land than may be available in a high density project. These essential recreational facilities may include: 1) a gym or fitness room, 2) space for yoga, dance, or other instruction, 3) enclosed or outdoor space for playing courts or games, 4) children's play area, 5) picnic and barbeque area, or 6) children's daycare space. At least two hundred fifty square feet per unit shall be provided for these recreational facilities, and there shall be a minimum of two of these facilities in projects with ten to fifty units, three of these facilities in projects with fifty-one to one hundred units, and four or more of these facilities in projects with more than one hundred units. No essential recreational facilities are required in a small project, with less than ten dwelling units. The space allocated for recreational facilities shall count toward the requirement for common open space, and this space may be within buildings.

I. *Minimum affordable housing requirement.*

1. *Requirement.* Residential development projects in an AHO and an MUO district with ten or more dwelling units shall provide the following minimum numbers of affordable housing units:
  - a. Rental projects: nine percent of the total units affordable to low-income households at an affordable rent.
  - b. For-sale projects: three percent of the total units in a common interest development for moderate income households at an affordable sales price, provided that all of the units are offered to the public for purchase.
  - c. Projects with both rental units and for sale units: The minimum numbers shall be calculated separately for each type of housing.
2. *Calculations.* All calculations of the number of affordable units required to be built on-site in a project that result in fractional units shall be rounded up to the next whole number.
3. *Common owners and control.* An applicant for development within an AHO or MUO district shall not avoid the requirements of this section by submitting piecemeal planning applications. At the time of the first application for residential development, the applicant shall identify all contiguous property under common ownership and control. The applicant shall not be required to construct housing on contiguous property but must include such property in a comprehensive affordable housing plan.
4. *Income qualifications.* Household income qualifications shall be those established by the California Department of Housing and Community Development each year for San Bernardino County, as adjusted for household size, pursuant to California Code of Regulations, Title 25, Section 6932, and Health and Safety Code Section 50093.

5. *Location, size, design, and distribution of affordable units.* Affordable units shall have the same bedroom and bathroom count ratio as the market rate units in a project, be equally distributed within the project, and have the same type or quality of appliances, fixtures, and finishes. The affordable housing units shall be integrated with other housing units in the housing development with regard to siting and placement within buildings and shall not differ in exterior appearance from the other housing units. The location of the affordable housing units may or may not be on contiguous parcels within the site. In no event shall the affordable housing units be located in only one portion of the housing development or situated in one building of a multi-building development.
  6. *Timing of construction.* All required affordable units shall be made available for occupancy prior to, or concurrently with, the market-rate units. The affordable units may be constructed in phases if the market-rate units are constructed in phases, provided that the percentage of affordable units developed in each phase shall be equivalent to or greater than the total percentage of affordable units to be developed as part of the residential development until such time that all the affordable units have been built.
- J. *Alternatives.* In lieu of providing the affordable units in the housing development project required by Section 20.09.090.D. and I., the requirements of those subsections may be satisfied through one or more of the alternatives set forth below.
1. *In-lieu fee.*
    - a. For housing development projects proposing up to twenty units, the developer may, by right, pay a fee in lieu of providing affordable units on site.
    - b. For housing development projects proposing more than twenty units, the developer shall only be allowed to pay in-lieu fees if the planning commission makes a finding that providing affordable units on-site would result in an extreme financial hardship to the developer and make the proposed project financially infeasible. The developer shall submit a request to pay a fee in lieu of providing affordable units on site as part of the project application. Such request shall include sufficient documentation and financial analysis to allow the planning commission to make the required findings. At the city's discretion, the city may contract with a third-party financial consultant to evaluate the documentation and analysis submitted by the applicant and make a recommendation to the city regarding the issues of extreme financial hardship and financial infeasibility. The developer shall be required to reimburse the city for all costs related to hiring any such third-party consultant, which shall be in addition to any other required application fees. The demonstration of financial hardship and infeasibility may be based on, among other things, such factors as project size, site constraints, and/or excessively large affordability gaps, or upon a demonstration that in the absence of allowing for payment of in-lieu fees, the imposition of the affordable housing production requirements in this section would violate the California and/or United States Constitutions because it would be a regulatory taking of property without fair and just compensation.
    - c. In-lieu fees shall be paid as follows:
      - (i) The amount of the fee shall be calculated using the fee schedule established by resolution of the city council at the time the fee is paid.
      - (ii) One-half of the in-lieu fee required by this subsection shall be paid (or a letter of credit posted) prior to issuance of a building permit for all or any part of the

housing development project. The remainder of the fee shall be paid before a certificate of occupancy is issued for any unit in the housing development project. In a phased project, payment of fees also may be allowed in phases, corresponding to the number of units in each phase.

- (iii) The fees collected shall be deposited in the overlay district affordable housing fund established by Section 20.09.090(M).

2. *Land dedication.* In lieu of providing affordable units on-site, a developer may request city council approval to dedicate land to the city or to a city-approved affordable housing developer that the director of development services determines is suitable for the construction of the required number of affordable units and is within one mile of the project site. To accept a land dedication in lieu of on-site affordable units, the city council must determine the fair market value of the dedicated land is equivalent to or greater than the amount of in-lieu fees that would have been needed to satisfy the housing development project's affordable housing obligation and that the required number of units for very low-income residents will be built on this land based on a proposed conceptual site plan and proforma financial analysis demonstrating project feasibility with available funding.
  - a. The developer must submit evidence that the land proposed to be dedicated is under the developer's control, will be conveyed at no cost to the city or a city-approved affordable housing developer with experience building rental housing for very low-income households, is free of any liens, all property taxes and special taxes have been paid, does not contain any hazardous materials, has the appropriate general plan designation and zoning to allow construction of the required number of units, and has the necessary infrastructure and public improvements to support the required number of affordable units. Only sites within an AHO or MUO district that are within one mile of the project site can be considered for land dedication.
  - b. The developer must disclose whether any hazardous materials were previously contained on the site; and hazardous materials were previously remediated, the developer must provide evidence that the cleanup was performed in accordance with applicable law.
  - c. The land proposed for dedication cannot have been improved with any residential use for at least five years prior to the submission of a land dedication proposal.
  - d. The affordable units to be constructed on the dedicated land shall be at least twenty percent of the total number of units in the project, and these units must be rental units affordable to very low income households.
3. *Off-site construction.* A market-rate developer may enter into an agreement with an affordable housing developer to construct, own, and operate affordable rental housing units required by Sections 20.09.090(D) and (I), provided:
  - a. The affordable housing developer is approved by the director of development services on the basis of recent relevant experience;
  - b. The affordable housing developer does not request any financial assistance from the city;
  - c. The affordable rental housing units shall be constructed prior to or concurrently with the market-rate development triggering the affordable housing requirement; and

- d. At least twenty percent of the total number of units to be built on the site shall be rental units affordable to very low-income residents.

K. *Review procedures.*

1. *Preliminary review.* A developer requesting additional density above twenty-six units per adjusted gross acre for a rental project under Section 20.09.090(D) shall submit an application for preliminary review, accompanied by the required application fee, for feedback prior to the submittal of any formal requests for approval of additional density. The purpose of the preliminary review is to determine whether the proposed development is in substantial compliance with applicable planning regulations and to establish the basis and procedures for granting the additional density. The following information is required to be submitted for preliminary review in the form of a proposed affordable housing plan in addition to information required by the department's preliminary review checklist:
  - a. Evidence that the project includes the qualifying percentages of affordable units set forth in Section 20.09.090(D) to justify the additional density requested;
  - b. Calculations showing the maximum base density and the density with the additional units;
  - c. Number and percentage of total units that are proposed to meet affordability criteria and the income level to which the units will be restricted; and
  - d. A description of any proposed waivers or reductions of development standards or other zoning requirements, consistent with the provisions of Government Code Section 95915(k).
2. *Site approval required.* All residential development or mixed use development with residential units in an AHO or MUO district shall require approval of a site approval application as outlined under Section 20.23.090. For residential development and mixed use development with residential units, design review by the planning commission shall be undertaken only to determine compliance with the city's objective design standards using the site approval process.
3. *Additional findings for approval.* The planning commission shall grant a site approval if it makes the findings required by Section 20.23.090 and the following additional findings:
  - a. The proposed development meets the affordability criteria for the requested density in accordance with the requirements of subsection (D) and (I); and
  - b. The increased density would not have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment or on any real property listed in the California Register of Historic Resources.
4. *Conditions of approval.* The planning commission has the authority to impose reasonable conditions that are related and proportionate to what is being requested by the applicant, as deemed necessary and appropriate to ensure that the provisions of the general plan, any applicable specific plan adopted by the city council, and this title are met, including requirements for needed off-site public improvements. The commission may require reasonable guarantees and evidence that such conditions are being, or will be, met.



5. *Special procedures for projects with at least 20 percent affordable units.* Notwithstanding any other provision of this section 20.09.090, owner-occupied and rental multifamily residential developments in either an AHO or MUO district that are located on a site that is included in Appendix B (Candidate Sites Analysis) of the city's Sixth Cycle Housing Element (2021-2029), meet the objective development standards and density requirements in this section, and in which at least 20 percent of the units are affordable to lower income households shall be a use by right. For purposes of this subsection (K)(5), "use by right" shall have the meaning given in Government Code section 65583.2(i), as may be amended. Developments that qualify under this subsection (K)(5) shall be subject to the review procedures in this subsection (K), except that neither the design review nor the site approval shall be considered a "project" for purposes of the California Environmental Quality Act.
- L. *Required affordable housing agreement for continued affordability.* Prior to the issuance of a building permit for any residential development project with affordable housing units in an AHO or MUO district, the applicant shall enter into a written agreement with the city ensuring the continued affordability of the affordable dwelling units for a period of not less than seventy-five years or as long as the property is in residential use, whichever is greater, for rental units and forty-five years for for-sale units. The terms and conditions of the agreement shall be binding upon the successor in interest of the developer and shall be recorded in the main office of the San Bernardino County assessor-recorder-clerk. The agreement shall be executed by the city manager, be in a form acceptable to the city attorney, and include provisions for the following:
  1. The number and proportion of housing units affordable to moderate-income, low-income, and very low-income households by type, their location, and the number of bedrooms in each one;
  2. Standards for maximum qualifying household incomes and maximum rents or sale prices;
  3. Minimum home buyer payments and sources of funds for them;
  4. The party responsible for certifying rents and sales prices of affordable housing units and reporting this information to the city;
  5. The process that will be used to certify incomes of tenants or purchasers of the affordable housing units;
  6. The manner in which vacancies will be marketed and filled, including the screening and qualifying of prospective renters and purchasers of the affordable units;
  7. Deed restrictions on the affordable housing units binding on property upon sale or transfer and any subsequent sale or transfer;
  8. Enforcement mechanisms to ensure that the affordable rental units are continuously occupied by eligible households and are not rented, leased, sublet, assigned, or otherwise transferred to non-eligible households, with reasonable allowances for inherited units and units initially occupied by very low-income individuals whose incomes may increase to a low-income level;
  9. Provisions allowing moderate income homebuyers to resell the unit at fair market value in return for the city receiving payment equal to the original affordability gap plus a defined share of the equity appreciation achieved on sale, which shall be deposited in the city's overlay district affordable housing fund and used within three years for any of

the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership; and

10. Project phasing, including the timing of completions, and rental or sale of the affordable housing units, in relation to the timing of the market-rate units.
- M. *Overlay district affordable housing fund.* There is a separate fund of the city known as the overlay district affordable housing fund, and all in-lieu fees or other funds collected under this section shall be deposited into the overlay district affordable housing fund. Additional funds from other sources also may be deposited in the overlay district affordable housing fund.
1. Money deposited in the overlay district affordable housing fund may be used to pay for the direct costs associated with administration and enforcement of the affordable housing program established for the AHO and MUO districts.
  2. After payment of expenses, at least seventy percent of the remaining money shall be expended to provide housing affordable to low income and very low-income housing holds; the remaining money may be expended to provide housing affordable to moderate-income households.
  3. The fund shall be administered by the director of development services.
  4. A developer receiving funding from the fund shall implement a local preference in their resident selection criteria.

Section 3. Section 20.21.340 (Senior housing projects) of the Chino Municipal Code is hereby revised to read as follows (additions in **red**; deletions in **bold-strikethrough**):

**20.21.340 - Senior housing projects.**

- A. *Consistency with California Civil Code.* Senior housing projects shall be limited to occupancy consistent with section 51.3 of the California Civil Code.
- B. *Development standards.* **Except as provided in subsection C, senior** ~~Senior~~ housing projects shall be developed in accordance with the development standards and guidelines applicable to the RD 20 zoning district.
- C. *Projects in the Affordable Housing Overlay or Mixed Use Overlay.* Senior housing projects in the Affordable Housing Overlay or the Mixed Use Overlay shall be subject to the density requirements and development standards of the overlay in which the project is located, which are found in Section 20.09.090.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 5. Environmental Review. On April 18, 2023, the City adopted an Addendum to the 6<sup>th</sup> Cycle Housing Element Update (2021-2029) Project Negative Declaration (ND) pursuant to Section 15164 of the California Environmental Quality Act (CEQA) Guidelines for the adoption of the Section 20.09.090 of the Chino Municipal Code. The Addendum determined

