

City of Santa Cruz

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Demolition of Housing

Demolition requirements are reviewed whenever a project requires approval of a Residential Demolition Authorization Permit (ie. demolition of one or more housing units with any project type). Requirements are objective and are also required as part of a ministerial review of a housing project.

The City does not interpret this section to include an addition to or remodel of existing dwelling units unless the units are not permitted and will be recognized with the permit.

Housing Development Project. Construction of 2 or more housing units.

While state legislation defines a Housing Development Project as construction of one or more residential units (clarified in SB8 effective 1/1/22), the law was further clarified by *Reznitsky v. County of Marin* (June 2022)), and established the definition of a Housing Development Project as the construction of at least two residential units. The demolition and replacement of a single residential unit, such as a single-family residence, a townhouse, or an ADU, does not constitute a Housing Development Project.

Development Project. Includes any development project, including a Housing Development Project, except an individual single-family dwelling (unless associated with demolition of 3 or more housing units) or a project that meets ALL of the following conditions:

- 1) Industrial Uses are proposed.
- 2) The zoning applicable to the site does not allow residential uses and was adopted prior to 1/1/22.
- 3) The protected units that are or were on the project site are or were nonconforming uses.

Demolition of three or more dwelling units will trigger the below requirements (such as to construct a SFD); however, these projects will almost always fall into one of the categories above.

Replacement Housing and Relocation Assistance			
Requirement	Housing Development Project	Non-Housing Development Project	Notes
Create at least as many total DUs in the project as the greatest number on the site within last five years (1:1)	X		Number of units shall be confirmed by city after review of permit history, aerial photos, and assessor's records, as needed.
"Replace" all Protected DU's¹ proposed to be demolished or demolished in last 5 years. Projects that involve the replacement of Lower Income units must provide at least the same number of replacement units as previously existing with the same total aggregate number of bedrooms as the units being replaced. There is flexibility in terms of the bedroom configuration of each replacement unit type. *Note: bedrooms at different income levels cannot be located in the same unit. The City's local ordinance is more restrictive than state law and requires the replacement of bedrooms in units occupied by moderate income units as well. 24.08.1360(1)(a).	X	X	Requires replacement of protected units with deed-restricted affordable units. • Replacement is 1:1 unit replacement of equivalent size (100% of all bedrooms) for units occupied by Extremely Low, Very Low, and Low Income households. • Replacement is 50% of all bedrooms in units occupied by moderate income households. No total unit replacement. • In R-T and C zones if demolition of 3 or more units only, replacement is 100% of the bedrooms in Extremely Low, Very Low, Low, and Moderate Income Units. No total unit replacement.

¹ See below for definitions of "Protected" dwelling units and "Replace".

Replacement units count towards affordable housing requirements for Density Bonus Eligibility and Inclusionary.	X	X	Deed-restricted affordable replacement units will count towards a Housing Development Project if located on same site. *NOTE: Chapter 24.16, Part 1 of the Zoning Ordinance includes additional requirements for inclusionary units.
Replacement housing shall be developed prior to or concurrently with the development project.	X	X	See standards in this table for replacement housing requirements.
The required replacement housing may be located on a site other than the project site but shall be located within the same jurisdiction. The project proponent may contract with another entity to develop the required replacement housing. Note: The city's local ordinance allows for off-site replacement of units occupied by moderate income households, however, the local ordinance also states that the stricter of the local ordinance or state laws apply, therefore, moderate income replacement bedrooms must be located on the project site if the project includes a HDP.		X	<u>For demolition of Protected Units¹ or moderate income units with a development project or HDP:</u> Replacement housing must be provided on-site with an application for a Housing Development Project. If off-site with a non-HDP, application must include all necessary easements, agreements, etc., and owner authorization to confirm off-site feasibility. Replacement housing may not exceed density of alternative site.
Written notice to all existing occupants required: - Notice of planned demolition - Date they must vacate(if known) and right to remain until at least 6 months before start of construction - Tenant rights under State Law	X	X	Submit copy of notice to Planning Department. Notice must be provided at least six months in advance of the date that the existing occupants must vacate. Applicants can provide this with the demolition permit review however, this will most likely be a COA so the applicant can better estimate the date of vacation.

All existing tenants are permitted to occupy units until 6 months prior to start of construction activities.	X	X	
Existing tenants allowed to return at prior rental rate if demolition does not proceed.	X	X	
Relocation benefits provided to occupants of protected housing within the past two years that are lower income or moderate income households. (Consistent with Section 7260). *This section does not apply to an occupant of a short term rental.	X	X	<u>For Lower Income Households:</u> Submit relocation plan for noticing and review with CP application. This is required by law and may not be conditioned for a later submittal date except in the case of ministerial review when it must be submitted and reviewed prior to building permit issuance. If the payment required by Section 7260 is less than two months rent, the applicant shall instead pay the tenant(s) two months rent.
For <u>existing</u> lower income tenants (LI, VLI, ELI), tenant has right of first refusal for a comparable unit in new housing development or in required replacement units, if eligible. Unit shall be affordable to the household at an affordable rent or cost. Exceptions: 1. Construction of a SFD on a site where a single protected unit is being demolished. 2. 100% affordable housing development for lower income households, when the tenant doesn't qualify for a residence in the new development and a comparable unit cannot be provided due to size limitation or funding constraints. 3. Projects that are exempt from "development project" as stated above.	X	X	The project must be designed to include a "comparable" replacement unit if one is required. A comparable unit has the same number of bedrooms as the unit to be demolished but does not necessarily have to have the same square footage or total rooms. (Refer to State Law for SFD's). Exceptions to the bedroom count may be permitted subject to agreement by the tenant and approval by the Community Development Department. Comparable units are not required to be deed-restricted unless they are also counted as an inclusionary unit or replacement unit. This allows for the unit to become market rate if the relocated tenant moves out.

Determining Affordability

In order to determine if your project is subject to the affordability requirements described above, it must be determined if the housing to be demolished is “protected”. It is likely that one of the following actions will apply to the project, depending on the status of the unit(s) and the proposed development:

1. The units are occupied or the units are vacant but have been occupied within the last five years.

- The property owner must make a good faith effort to determine if any existing or prior tenants are lower income households.
- To determine incomes, the applicant may choose to ask the tenant to complete the City’s Affordable Housing Determination Packet and submit it to the Housing Authority of the County of Santa Cruz (HA) for determination on income eligibility. This income information is essential to determine if replacement housing will be subject to affordability restrictions and if the tenant is eligible to receive the relocation benefits available to lower income tenants. Note that the HA charges a minimum fee for this process and may charge more depending on the completeness of the application and length of time to review.
- Replacement housing units must be rented or sold at the affordability level (either low income or very low income) for which the HA determines that the prior tenant was eligible. Alternatively, if the HA finds that the tenant is/was not considered a lower income household, then the replacement housing unit may be rented or sold at market rate

2. The units have been demolished or if the income category of the household in occupancy is not known and cannot be determined

- It shall be presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development’s Comprehensive Housing Affordability Strategy (CHAS) database (Government Code Section 65915(c)).
- All replacement calculations resulting in fractional units must be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the initial

	occupant of all affordable for-sale units must be persons and families of very low or low income, as required, and the units must be offered for sale at an affordable housing cost.
3. No affordability restrictions are required.	- If the unit has been vacant for a five-year period preceding the application and if the unit was not removed from the housing market under the Ellis Act within the last ten years preceding the application, or if income verification is provided as described under Number 1 above and the most recent tenant is not considered a lower or moderate income household. - Replacement housing is still required for Housing Development Projects, however, affordability restrictions will not be required to be placed on the replacement dwelling units unless the replacement units are identified as inclusionary units or density bonus affordable units. - The property owner will be required to sign the Residential Demolition/Conversion Authorization Permit Form (Form #10) to confirm compliance.

DEFINITIONS:

Protected Units are defined by both state law and local ordinance:

Government Code §66300.5

(h) "Protected units" means any of the following:

- (1) Residential dwelling units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years.
- (2) Residential dwelling units that are or were subject to any form of rent or price control through a public entity's valid exercise of its police power within the past five years.
- (3) Residential dwelling units that are or were rented by lower or very low income households within the past five years.
- (4) Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years.

"Replace" is defined in section 65915(c)(3)(B)&(C):

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

- (i) **If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size** to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in

occupancy. If the income category of the household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. **For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size** to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household in occupancy is not known, it shall be rebuttably presumed that lower income renter households occupied these units in the same proportion of lower income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, it shall be rebuttably presumed that low-income and very low income renter households occupied these units in the same proportion of low-income and very low income renter households to all renter households within the jurisdiction, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Notwithstanding subparagraph (B), for any dwelling unit described in subparagraph (A) that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power and that is or was occupied by persons or families above lower income, the city, county, or city and county may do either of the following:

(i) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit described in subparagraph (A) is replaced. Unless otherwise required by the jurisdiction's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(D) For purposes of this paragraph, "equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(E) Subparagraph (A) does not apply to an applicant seeking a density bonus for a proposed housing development if the applicant's application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.