CITY OF MORGAN HILL
CITY COUNCIL POLICIES AND PROCEDURES

CP 07-04

SUBJECT: **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM IMPLEMENTATION POLICIES**

EFFECTIVE DATE: **AUGUST 22, 2007; UPDATED JULY 16, 2008; UPDATED APRIL 7, 2010**

REVISION DATE: **JULY 20, 2011**

ORIGINATING DEPT: **PLANNING**

It shall be the policy of the City of Morgan Hill to utilize the following policies to provide guidance in the implementation of the Residential Development Control System for matters not specifically addressed in Chapter 18.78 of the Municipal Code.

I. EXEMPTION POLICY

The Residential Development Control System (RDCS) applies to all types of residential development in the City, including single family (which includes mobile homes) and multi-family housing, except one dwelling unit developments & which are not part of a current, planned or potentially larger subdivision, and except secondary dwelling units (granny units).

This provision has been interpreted to allow the following to occur outside of the provisions of Chapter 18.78:

1. Construction of a single family dwelling on a vacant lot of record or on a lot that was part of a vesting tentative map that was accepted for processing prior to the effective date of the RDCS on December 8, 1990. This exemption would apply whether the development involved a single parcel or multiple parcels of record under single ownership. Development of two or more contiguous parcels of record as a single project under this exemption shall only be allowed to proceed with prior approval of a Residential Planned Development overlay zoning.

2. Construction of one dwelling unit additions to existing single and multi-family dwelling units. This would allow a single dwelling to be converted to a duplex, a duplex to a triplex, etc.

3. Replacement of an existing single-family dwelling with a duplex, or the replacement of a duplex with a triplex, etc., provided that the existing dwelling units(s) were habitable as determined by the Chief Building Official. This exception does not apply to a dwelling unit lost to fire or other means and not replaced within two years.

4. Subdivision of property which contains an existing single-family dwelling to create two lots and construction of a new single-family dwelling unit on the newly created vacant lot.

5. The moving of an exempt unit from one lot to another shall be allowed when the existing unit or credit for the replacement unit is incorporated into a 100 percent affordable project or a project awarded a building allocation under the 20 percent affordable housing set-aside. A deed restriction shall be recorded on the original exempt unit site stipulating that any residential development of that site shall only be allowed to proceed upon receipt of a building allotment under the provisions of the Residential Development Control System. In all cases, the transferred units shall have recorded covenants restricting affordability for 45 years for ownership and 55 years for rentals before a Certificate of Occupancy could be issued.

6. The construction of residential care facilities (both large and small), nursing homes, convalescent hospitals and congregate care for the elderly/assisted living on a single lot of record.

   Note: Independent/active senior citizen housing units either "for sale" or "for rent" that do not provide the level of support services as "congregate care for the elderly/assisted living facilities" as defined by the zoning ordinance are subject to the RDCS

7. Commercial lodging facilities or motels.

   A deed restriction must be recorded on the property involving all of the exemptions stating that no further subdivision or residential development of the property shall be allowed, except under the Residential Development Control System. Also these exemptions shall only be allowed under circumstances where the resulting density conforms to the General Plan and the zoning requirements of the subject property and a general plan and/or zoning application was filed and was in process on or before December 8, 1990.

   The above exemption policy would not apply to the following developments:

   1. Construction of a second single-family dwelling on a single lot of record.

   2. Moving exempt units from one lot to another except as provided in item number 5 above.

   3. Subdivision of a vacant parcel for purposes of creating a single building lot and a deed restricted remainder parcel.

II. COMPETITION CATEGORIES

1. Small Projects:

A small project is defined as any residential development of 7-15 units. A small project must be located on a site with an ultimate development potential of no more than 15 units.

2. Micro Projects:

A micro project is defined as residential development consisting of a maximum of (6) dwelling units. A micro project must also be located on a site with an ultimate development potential of no more than 6 units.

The micro project competition will usually be conducted each year (in the month of September) by the Community Development Department staff in consultation with other city departments. The competition may also be consolidated and conducted with the open/market competition or other competition depending on the availability of building allotments. The Planning Commission will review staff's evaluation when the number of residential units in proposed developments exceeds the number of allotments authorized to be distributed in the competition.

3. Custom Lots:

A custom lot development is defined as a project which includes the opportunity for individuals to purchase lots. Custom lots shall be defined as follows:

- Minimum lot size shall be based on the underlying zoning (no RE or large lot minimums).
- The original developer can retain ownership of up to 50% of the lots. The balance of the lots must be made available for purchase by individual builders who wish to construct homes.
- Of the "for sale lots", no more than 2 lots may be purchased by any one person.
- Exterior elevations should vary throughout the project and floor plans may not be repeated but can be reversed if elevation is varied.

4. Multi-family Rental Projects:

A multi-family rental project is a development of any size providing market rate rental housing, typically apartments. A rental project may be constructed to a condominium standard to allow future conversion. However, future conversion from apartments to condominiums shall only be allowed as provided under the condominium conversion ordinance pursuant to Section 17.36 of the Municipal Code.

5. **Small Vertical Mixed Use Projects:**

A small vertical mixed use project is with a maximum of 15 dwelling units with a mix of ground floor retail or office and residential use allowed in mixed use districts typically in the Downtown, or mixed use districts such as the CC-R and CL-R zoning districts.

6. **Senior Housing:**

Senior housing is a project of any housing type for persons 55 and older as defined in Section 18.04.393 of the Municipal Code and meets the requirements of Civil code section 51.2. A senior housing project for the purposes of the RDCS competition must meet all the following minimum requirements: 1) Must be 25 units or more. 2) Lot sizes shall not exceed an average 9,000 sq. ft. (unless a single lot multi-family development). 3) Must have an HOA to maintain all common amenities and front yard landscaping. 4) Seventy five percent or more of the units must be single story in the projects proposed in single family zoning districts (or single level flats in multifamilyzoning districts) with the exception R-1 4,500 zoning district where fifty percent or more shall be single story. 5) All 2-story units shall be designed and prewired for elevators or stair lifts. 6) All units within the project must meet visitability and adaptability standards. The Planning Commission has the discreation to waive or allow variation from the above definition for multifamily senior projects that are found to be in substantial compliance with the above definition.

7. **Open/Market Rate Housing:**

The open/market rate competition category applies to housing of any type typically consisting of projects of more than 15 dwelling units at build-out. Dwelling units in open/market rate developments can be sold at market rates typically to moderate and above moderate income households. Applicants can receive maximum points under the RDCS Housing Needs evaluation criteria for making available below market rate units consistent with the criteria specified in section 18.78.260 of the Municipal Code.

III. APPLICATION SCORING

1. **Response Time for Police and Fire:**

A five (5) minute response standard for police and fire services shall be used for Part 1 of the RDCS evaluation.

IV. AFFORDABLE COMPETITION

1. Eligibility:

In order to be eligible to apply in the Affordable RDCS competition, each project shall restrict all units in accordance with applicable State Redevelopment Law. In addition, the following basic requirements must be met:

A. For Sale Projects: 75% of the units must be affordable at or below 120% of the county median income computed for a family of four and adjusted annually by the State of California Department of Housing and Community Development (State HCD).

Proposed home prices must be pre-approved by the City.

Homes must be sold to income qualifying households who have been pre-approved by the City.

B. For Rent Projects: 49% of the units in each project must be affordable at no greater than 50% of the county median income computed for family size and adjusted annually by State HCD.
At least an additional 10% of the units must be restricted to households with incomes below 60% of the county median, as computed for family size.
The remaining units must be restricted at or below 100% of county median, as computed for family size.

2. Award of Allotments:

Allotments shall be made to project in the affordable competition without regard to housing types, provided that at least 20% of all allotments in the affordable competition are for multi-family dwellings and at least 30% of all multi-family dwellings are rental units.

Building allotments will be awarded to projects on a first come, first served basis from a pool of building allotments. Affordable projects must receive the required minimum passing score in both Part I and II of the RDCS in order to be awarded allotments.

V. DEFINITION OF PHYSICAL COMMENCEMENT

According to Section 18.78.125(G) of the Municipal Code "dwelling units allocated for one fiscal year and not physically commenced according to an approved development schedule by the end of that fiscal year, shall lose their allocation." A project shall be deemed to have physically commenced development upon issuance of a building permit and completion of the following improvements:

Installation of on-site and off-site improvements including grading and certification of the building pad by the Building Division and completion of one or more of the following:

a) excavation of the footings and foundations for the dwelling unit
b) installation of water or sewer laterals to the relevant units

VI. COMMITMENT FOR OFFSITE SUBDIVISION IMPROVEMENTS

For scoring purposes, an applicant for RDCS allotments must have ownership or site control via enforceable agreement over any lands that are proposed to be improved as part of the subject project, both for public and private improvements. Any agreement will need to provide that applicant site control is sufficient duration to allow for final acquisition of subject lands prior to approval of discretionary permits or issuance of building permit, whichever comes first.

STEVE TATE, Mayor