

**PRELIMINARY DRAFT – SUBJECT TO REVIEW AND APPROVAL  
BY SAN DIEGO CITY ATTORNEY BEFORE SUBMITTAL  
TO CITY COUNCIL FOR FINAL CONSIDERATION**

Draft Ordinance Amending SRO Hotel Regulations  
in Chapter 14, Article 3, Division 5 of San Diego Municipal Code

*[full title of ordinance to be inserted later]*

*[WHEREAS recitals in ordinance to be inserted later, describing the background of the existing regulations and the purposes to be achieved by the proposed amendments to the regulations]*

**§143.0501 Purpose of SRO Hotel Regulations**

The purpose of these regulations is to ensure the retention of the existing number of *SRO* (single room occupancy) *hotel rooms* and to provide assistance to tenants of *SRO hotel rooms* that will be displaced by the demolition, conversion, or rehabilitation of existing *SRO hotel rooms*. These regulations are intended to benefit the general public by minimizing the adverse impact on the housing supply and on displaced persons, particularly those who are *very low income*, elderly, or disabled, resulting from the permanent or temporary loss of *SRO hotel rooms* through their demolition, conversion, or rehabilitation.

**§143.0502 Authority**

This division is adopted pursuant to the regulatory authority set forth in California Government Code sections 7060 through 7060.7.

**§143.0503 Limitation**

Unless otherwise expressed in the San Diego Municipal Code, the provisions of this division are the exclusive procedures and rules relating to the proposed demolition or rehabilitation of all or part of an *SRO hotel* or *SRO hotel rooms* or the proposed conversion to another use of all or part of an *SRO hotel* or *SRO hotel rooms*. In the event of a conflict, the provisions of this division shall prevail over any other provisions of the San Diego Municipal Code.

**§143.0504 Definitions**

The following italicized terms, referenced in this division, are defined in Section 113.0103: *applicant, business day, development, disabled person, dwelling units, low income, permanent supportive housing, premises, record owner, SRO hotel, SRO hotel rooms, structure, transit priority area, and very low income*. In addition, the following definitions shall apply to this division:

*Affordable housing agreement* means a written agreement between the *Housing Commission* and the *record owner* with respect to any *SRO hotel* (a *standard pre-1990*, an *exempt pre-1990* or a *post-1990 SRO hotel*, (a *standard pre-1990*, an *exempt pre-1990* or *post-1990 SRO* which takes advantage of an incentive or

other direct financial contribution as described under this division, which sets forth affordability restrictions and is recorded against the *premises*

*Direct financial contribution* means any form of assistance that qualifies as a “direct financial contribution” as defined in California Government Code section 7060.1 and any related statutory, regulatory, or case law, and includes any contribution that results in identifiable, actual cost reductions for an *applicant’s* project that help defray an *applicant’s* cost of construction, rehabilitation, or operation of affordable housing units, such as:

- (1) Participation in infrastructure costs;
- (2) Write-down of land costs;
- (3) A subsidy toward construction costs;
- (4) A reduction in site development standards or a modification of zoning requirements or architectural design requirements that exceed minimum building standards, such as a reduction in setback and square footage requirements or a reduction in the ratio of vehicular parking spaces that would otherwise be required;
- (5) Approval of mixed-use zoning;
- (6) Waiver of fees or dedication requirements that would otherwise apply; or
- (7) Other regulatory incentives or concessions or contractual terms agreed upon by the City or the *Housing Commission*, at an *applicant’s* request, that result in identifiable, actual cost reductions.

*Exempt pre-1990 SRO hotel* means an *SRO hotel* that is identified with such designation in the *SRO hotel list*, signifying both that the *SRO hotel* has a valid occupancy permit originally issued by the City prior to January 1, 1990, and that the *record owner* of the *SRO hotel* or its representative delivered a notice to the City or the *Housing Commission* prior to January 1, 2004, expressing the *record owner’s* intent to withdraw the accommodations in the *SRO hotel* from rent or lease pursuant to California Government Code section 7060.4(a).

*Final determination* means one of the following: (1) the *Housing Commission staff determination*, if no timely appeal is filed with respect to such determination in accordance with Section 143.0509(e); (2) the written determination of the *Housing Commission’s* governing body in response to a timely appeal of the *Housing Commission staff determination*, if no timely appeal is filed with respect to the determination of the *Housing Commission’s* governing body in accordance with Section 143.0509(g); or (3) the determination of the City Council in accordance with Section 143.0509(h), in response to a timely appeal of the determination of the *Housing Commission’s* governing body.

*Housing Commission* means the San Diego Housing Commission or any successor agency, as the agency responsible for administering the *SRO hotel* regulations in this division.

*Housing Commission staff determination* is a written determination issued by the *Housing Commission* President or designee, as specified in Section 143.0509(a),

with respect to one or more of the following topics: (1) the status of the improved *premises* as an *SRO hotel*; (2) the number of units on the improved *premises* being operated as *SRO hotel rooms*; or (3) the designation of an *SRO hotel* as a *standard pre-1990 SRO hotel*, an *exempt pre-1990 SRO hotel*, or a *post-1990 SRO hotel*.

*Housing replacement agreement* means a written agreement that is entered into between the *Housing Commission* and the *record owner* specifying the manner in which the housing replacement requirements in Section 143.0511 will be met with respect to the proposed demolition, rehabilitation, or conversion of any *standard pre-1990 SRO hotel*.

*Housing replacement plan* means a written plan for replacement of *SRO hotel rooms*, which plan is required to be submitted by an *applicant* to the *Housing Commission* in compliance with Section 143.511(a) as part of any *SRO Owner Application* with respect to the proposed demolition, rehabilitation, or conversion of any *standard pre-1990 SRO hotel*.

*Post-1990 SRO hotel* means any *SRO hotel* in the City that has a valid occupancy permit originally issued by the City on or after January 1, 1990, that is not subject to the *SRO hotel replacement requirement*.

*Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

*Relocation assistance agreement* means the Relocation Assistance Agreement Affecting Real Property that is entered into between the *Housing Commission* and the *applicant*, incorporating the tenant relocation assistance outlined in the *tenant relocation plan*.

*Special needs tenant* means any tenant who: (1) is at least age 62; (2) is a *disabled person*; or (3) resides with, and serves as the head of household for, one or more minor children who are legal dependents of the head of household (as determined for federal income tax purposes).

*SRO owner application* means a written application submitted by an applicant to the *Housing Commission* on a form prescribed by the *Housing Commission* that, depending on the circumstances, either: (1) seeks a *Housing Commission staff determination*; or (2) is submitted for purposes of compliance with the requirements of this division due to applicant's filing with the city for a permit related to the demolition, conversion or rehabilitation of all or part of an *SRO hotel* or *SRO hotel unit*.

*SRO hotel list* means a written list identifying *SRO hotels* in the City and their status as an *exempt pre-1990 SRO hotel*, a *standard pre-1990 SRO hotel*, or a *post-1990 SRO hotel*, which list is maintained by the *Housing Commission's* President or designee, is posted on the *Housing Commission's website*, and shall

be updated from time to time by the *Housing Commission* to reflect future demolitions or conversions as well as the issuance of any *final determination*.

*SRO hotel replacement fund* means a separate City fund account consisting of in-lieu fee amounts paid by *applicants* in accordance with Section 143.0511(h)(4), which account shall be managed by the *Housing Commission* and used solely for the production of replacement *SRO hotels* or *SRO hotel rooms*.

*SRO procedures manual* means the Single Room Occupancy Procedures Manual approved by the City Council and updated from time to time by the Housing Commission in accordance with Section 143.0508.

*Standard pre-1990 SRO hotel* means an *SRO hotel* that has a valid occupancy permit originally issued by the City prior to January 1, 1990, but is not identified as an *exempt pre-1990 SRO hotel* in the *SRO hotel list*.

*Tenant relocation plan* means a proposed written plan submitted with the *SRO owner application* that is required of each *applicant* who seeks a permit from the City to demolish, rehabilitate, or convert all or part of an *SRO hotel* or *SRO hotel rooms*, which plan shall provide: (1) details as to each tenant to be relocated, whether temporary or permanent; (2) the noticing to be provided to each tenant; and (3) the calculation of relocation benefits to be received by each tenant, as further described in the *SRO owner application*.

#### **§143.0505 When SRO Hotel Regulations Apply**

This division applies to any *development* that proposes the demolition or rehabilitation of all or part of an *SRO hotel* or *SRO hotel rooms* or the conversion to another use of all or part of an *SRO hotel* or *SRO hotel rooms*, except as provided in Section 143.0506.

#### **§143.0506 Exemptions from SRO Hotel Regulations**

- (a) The housing replacement requirements in Section 143.0511 do not apply in each of the following circumstances:
- (1) Where the *SRO hotel* is identified as an *exempt pre-1990 SRO hotel* in the *SRO hotel list*.
  - (2) Where the owner of a *standard pre-1990 SRO hotel* provides for the recording of covenants restricting the occupancy and affordability of the *SRO hotel rooms* for households earning less than or equal to 60 percent of the area median income, as adjusted for household size, for a term of 30 years.
  - (3) Where the owner of a *standard pre-1990 SRO hotel* sells the *SRO hotel* to a nonprofit corporation with experience in operating affordable housing projects, provided that the sale is contingent upon

the recording of covenants, in a form acceptable to the *Housing Commission*, restricting the occupancy and affordability of the *SRO hotel rooms* for households earning less than or equal to 60 percent of the area median income, as adjusted for household size, for a term of 30 years.

- (b) The SRO Hotel Regulations of this Chapter 14, Article 3, Division 5, no longer apply in each of the following circumstances:
- (1) Conversion of all or part of an *exempt pre-1990, standard pre-1990 or post-1990 SRO hotel* or *SRO hotel room* to a *very low income* housing project.
  - (2) Where all or part of an *exempt pre-1990, standard pre-1990 or post-1990 SRO hotel* will be demolished to accommodate the *development* of a *very low income* housing project on the same site, which housing project shall be completed within two years after demolition of the existing *SRO hotel* is completed, pursuant to a written agreement between the *record owner* and the *Housing Commission*, in a form prescribed by the *Housing Commission*.
  - (3) Where all or part of an *exempt pre-1990, standard pre-1990 or post-1990 SRO hotel* will be demolished or converted to accommodate the *development* of a project that is: (1) subject to the recording of covenants, in a form acceptable to the *Housing Commission*, restricting the occupancy and affordability of the *dwelling units* for *low income* senior households for a term of 30 years; and (2) operated by a nonprofit corporation with experience in operating affordable housing projects.

#### **§143.0507 Administration of SRO Hotel Regulations**

The *Housing Commission* is the designated administrator of the regulations in this division and shall do the following:

- (a) Administer the process for each *final determination* as to *SRO hotels* in accordance with Section 143.0509.
- (b) Review each *SRO owner application* seeking a permit to demolish, rehabilitate, or convert a hotel to identify any *SRO hotel* or *SRO hotel room* that is not exempt under Section 143.0506 from the housing replacement requirements.
- (c) Advise any *applicant* regarding the regulations in this division and require an *applicant* to submit an *SRO owner application* for the *Housing Commission's* review and processing in accordance with this division.
- (d) Review each proposed *housing replacement plan* prepared by an *applicant* and advise the *applicant* as to whether the plan satisfies the housing replacement requirements in Section 143.0511.

- (e) Incorporate each approved *housing replacement plan* into a *housing replacement agreement* between the *applicant* and the *Housing Commission*, specifying the manner in which the housing replacement requirements in Section 143.0511 will be met.
- (f) Where housing replacement is required and an *applicant* elects to pay a fee in lieu of providing replacement housing, determine the amount of the fee and ensure that the fee is collected from the *applicant* and deposited into the *SRO hotel replacement fund*.
- (g) Manage the *SRO hotel replacement fund* and cause replacement units to be acquired, constructed, or rehabilitated.
- (h) Review each *tenant relocation plan* prepared by an *applicant* and advise the *applicant* as to whether the plan satisfies the relocation requirements in Section 143.0512.
- (i) Provide expedited review of each proposed *tenant relocation plan* that has been certified by an experienced relocation consultant.
- (j) Provide review, subject to the *applicant's* payment of an hourly fee, of each proposed *tenant relocation plan* that has been submitted without the certification of an experienced relocation consultant.
- (k) Incorporate each approved *tenant relocation plan* into a *relocation assistance agreement* between the *applicant* and the *Housing Commission*, specifying the manner in which the relocation requirements in Section 143.0512 will be met.
- (l) Prepare and implement a system to monitor compliance with the regulations in this division.
- (m) Determine a reasonable fee to be paid by each *applicant* to the *Housing Commission* for the costs incurred by the *Housing Commission* in implementing this division.

**§143.0508 SRO Procedures Manual**

The *Housing Commission* shall prepare, and submit for the City Council's consideration, the *SRO procedures manual*, which shall specify the mechanisms and procedures necessary to implement the regulations in this division, including with respect to: (1) each *replacement housing agreement* for a *standard pre-1990 SRO hotel*; and (2) each *affordable housing agreement* where an *applicant* for an exempt pre-1990, standard pre-1990 or *post-1990 SRO hotel* receives a *direct financial contribution*, as described in Section 143.0514(h)

**§143.0509 Administrative Decisions Regarding SRO Hotels**

The *Housing Commission* shall administer a *Housing Commission staff determination*, and shall facilitate a *final determination* whenever a timely appeal is filed, as follows:

- (a) For each *SRO hotel* identified in the *SRO hotel list*, and whenever separately requested in writing by an *applicant*, the *Housing Commission* shall cause a *Housing Commission staff determination* to be issued with respect to one or more of the following topics, as applicable: (1) the status of the improved *premises* as an *SRO hotel*; (2) the number of units on the improved *premises* being operated as *SRO hotel rooms*; or (3) the designation of an *SRO hotel* as a *standard pre-1990 SRO hotel*, an *exempt pre-1990 SRO hotel*, or a *post-1990 SRO hotel*.
- (b) The *Housing Commission* shall provide written notice to all affected *record owners* regarding the administrative process for the *Housing Commission staff determination* and the opportunity to pursue an administrative appeal to the *Housing Commission's* governing board and, where applicable, the City Council.
- (c) The *Housing Commission* may request information from each affected *record owner* and conduct investigations as reasonably necessary to implement the provisions of this section and to determine the status of improved real property in accordance with this section. If the *Housing Commission* has requested information from the *record owner* in order to make a *Housing Commission staff determination*, and the *record owner* has not provided the requested information within 30 calendar days after the *Housing Commission's* written request, the *Housing Commission staff determination* will be made based on the factual information reasonably available to the *Housing Commission*.
- (d) The *Housing Commission* shall provide the *Housing Commission staff determination* by certified mail, return receipt requested, to the *record owner*. The *Housing Commission staff determination* shall contain: (1) written supporting findings wherever it is determined that the improved *premises* qualifies as an *SRO hotel* or that an *SRO hotel* does not qualify as an *exempt pre-1990 SRO hotel*; and (2) written notice of the *record owner's* right to file an appeal of the *Housing Commission staff determination* and confirmation of the written appeal form required for that purpose.
- (e) Within 15 calendar days after the date of receipt as shown on the certified mail return receipt for the *Housing Commission staff determination*, the *record owner* or its authorized representative may file an appeal of the *Housing Commission staff determination* by submitting a completed version of the required appeal form to the *Housing Commission's* Vice President of Communications, together with a check payable to the *Housing Commission* for a fee in the amount of \$500 to cover the *Housing Commission's* costs in

investigating and processing the appeal. If no appeal of the *Housing Commission staff determination*, the *Housing Commission staff determination* shall be the *final determination*.

- (f) Within 90 calendar days after the filing of the appeal of the *Housing Commission staff determination*, or as soon thereafter as reasonably practicable, the *Housing Commission's* governing board shall consider the appeal during a public meeting and shall make a written determination of the appeal. The written determination shall state the basis for the determination, in reliance upon the available evidence, and shall provide notice of the right to file an appeal of the written determination and confirmation of the written appeal form required for that purpose. The *Housing Commission* shall provide the written determination by certified mail, return receipt requested, to the *record owner* and any interested person who filed an appeal or submitted evidence pursuant to this section.
- (g) Within 15 calendar days after the date of receipt as shown on the certified mail return receipt for the written determination of the *Housing Commission's* governing body, any recipient of the written determination or its authorized representative may file an appeal of the written determination by submitting a completed version of the required appeal form to the *Housing Commission's* Vice President of Communications, together with a check payable to the *Housing Commission* for a fee in the amount of \$250 to cover the *Housing Commission's* costs in processing the appeal for the City Council's consideration. If no appeal of the *Housing Commission's* governing board, with payment of the \$250 fee, is timely submitted to the *Housing Commission's* Vice President of Communication, the written determination of the *Housing Commission's* governing body shall be the *final determination*.
- (h) Within 90 calendar days after the filing of the appeal of the written determination of the *Housing Commission's* governing body, or as soon thereafter as reasonably practicable, the City Council shall consider the appeal during a public meeting and shall make a written determination of the appeal. The written determination shall state the basis for the determination, in reliance upon the available evidence, and shall constitute the *final determination*.
- (i) No later than the date that the *record owner* files any appeal under this section, or within five calendar days after the *Housing Commission* provides written notice to the *record owner* that an interested party has filed an appeal under this section, the *record owner* shall complete a written notice of the appeal on a form prescribed by the *Housing Commission*, provide the completed notice to the *Housing Commission*, and post the completed notice on the affected *premises*, in a conspicuous place visible to tenants. The *record owner* shall maintain the posting of the notice on the *premises* until the appeal has been resolved. The notice shall identify the administrative determination that is the subject of the appeal and identify the grounds for the appeal. The notice shall provide the name and contact number of *Housing Commission* staff that may be contacted by the *record owner* or any interested person to



obtain additional evidence and information regarding the appeal. Within ten days after the *Housing Commission's* receipt of the completed notice from the *record owner*, the *Housing Commission* shall mail a copy of the notice to the occupants of the *premises* that is the subject of the appeal.

- (j) During the period of time that any appeal is pending under this section, the *Housing Commission* shall provide to the *record owner*, the appellant, and any interested person, upon request, all information relied upon by the *Housing Commission* in making the determination that is the subject of the pertinent appeal, except that the *record owner's* confidential financial or proprietary information shall not be disclosed to any person other than the *record owner*. To ensure timely processing of any appeal, the appellant, the *record owner*, and any interested person (including tenants of the affected *premises*) shall submit to the *Housing Commission* any evidence in support of or opposition to the appeal within 45 calendar days after the filing of the appeal. The appellant in each pertinent appeal shall have the burden of proving by a *preponderance of the evidence* that the determination being appealed is erroneous.
- (k) Any legal challenge to a *final determination* shall be filed within 90 calendar days after the issuance of the *final determination*, after the exhaustion of all available administrative appeals under this section. The date of issuance of the *final determination* shall be the date of final passage of the City Council's resolution that confirms the *final determination*.
- (l) The *Housing Commission* shall record each *final determination* with the County Recorder's Office, retain a copy of each *final determination* in its official records and shall provide a copy of each *final determination* to the City's Development Services Department. The City and the *Housing Commission* shall rely upon each *final determination* to determine the *SRO hotel* status in response to any *SRO owner application* seeking a permit for demolition, rehabilitation, or conversion to another use with respect to all or a part of any *SRO hotel* or *SRO hotel rooms*.
- (m) The *Housing Commission* shall post the *SRO hotel list*, as updated from time to time, on its internet website and shall provide a copy of the *SRO hotel list* to any interested person upon request.

**§143.0510 Provision of Occupancy Information to Housing Commission**

The *record owner* of each *SRO hotel* or *SRO hotel room* identified in the *SRO hotel list* shall maintain daily logs regarding the occupancy status of *SRO hotel rooms* and shall provide a written annual report to the *Housing Commission* by March 1 of each calendar year, summarizing the number of tenants and term of occupancy of each *SRO hotel room* for the immediately preceding calendar year.

**§143.0511 Housing Replacement Requirements**

- (a) Before the City issues a permit allowing a *record owner* to demolish, rehabilitate, or convert to another use all or part of a *standard pre-1990 SRO hotel* or any *SRO hotel room* within a *standard pre-1990 SRO hotel*, the *applicant* shall execute a *housing replacement agreement* with the *Housing Commission* in accordance with this section and shall submit a *housing replacement plan* for the *Housing Commission's* review and approval.
- (b) Except as set forth in Section 143.0511(c), replacement *SRO hotel rooms* shall be provided within the community plan area in which the *SRO hotel rooms* were demolished or converted, or within one mile of the *premises* of the *SRO hotel rooms*, as measured in a straight line from the property lines of the *SRO hotel rooms* to the property lines of the *premises* where the replacement *SRO hotel rooms* will be provided. The replacement *SRO hotel rooms* shall be completed and ready for occupancy before occupancy of the redeveloped site upon which former *SRO hotel rooms* were located.
- (c) The *Housing Commission* may approve or conditionally approve replacement *SRO hotel rooms* located on a proposed project site outside of the community plan area where it finds: (1) the proposed project site will assist in meeting the goal of providing economically balanced communities; and (2) the proposed project site will assist in meeting the goal of providing transit-oriented development or is located in a high employment area as designated by the San Diego Association of Governments, also known as SANDAG, or other equally qualified governmental agency responsible for regional public planning. The replacement *SRO hotel rooms* shall be completed and ready for occupancy before occupancy of the redeveloped site upon which the former *SRO hotel rooms* were located.
- (d) Replacement *SRO hotel rooms* shall be made available to and occupied by *very low income* persons at rents affordable to a *very low income*, single-person household as most recently established by the U.S. Department of Housing and Urban Development or successor agency for the San Diego Standard Metropolitan Statistical Area.
- (e) Replacement *SRO hotel rooms* shall be subject to the recording of covenants, in a form acceptable to the *Housing Commission*, restricting the occupancy and affordability of the *SRO hotel rooms* to *very low income* persons for a term of 30 years.
- (f) Replacement *SRO hotel rooms* that are proposed to be located in a *transit priority area* shall not be required to provide on-site parking.
- (g) A project that provides replacement *SRO hotel rooms* for a term of 55 years is eligible for additional density and other incentives under the City's Affordable Housing Regulations in Chapter 14, Article 3, Division 7.
- (h) *SRO hotel rooms* shall be provided at a ratio of one replacement room for each existing *SRO hotel room* proposed to be demolished or converted. The replacement rooms shall be provided by one of the following methods:

- (1) Construction of new *SRO hotel rooms, permanent supportive housing, or other very low income housing*;
- (2) Rehabilitation or conversion of hotel rooms that have been continuously vacant for more than one year before the date of submittal of the permit application for use as *SRO hotel rooms*. Rehabilitation means reconstruction, renovation, repair, or other improvement to all or part of an *SRO hotel* or an *SRO hotel room*. The *applicant* shall provide evidence that the *structure* has a remaining useful life of at least 30 years and complies with current building code standards, to the satisfaction of the City Engineer;
- (3) Conversion of a nonresidential *structure* to *SRO hotel rooms*; or
- (4) In lieu of providing *SRO hotel rooms*, an *applicant* may contribute to the *SRO hotel replacement fund*. The amount of the contribution shall be set by the San Diego Housing Commission, approved by the City Council, and thereafter shall be indexed, adjusted annually in accordance with the annual adjustment to the XXXX Construction Cost Index. Once the annual adjustment is determined, the new fee amount will be forwarded by the San Diego Housing Commission to the City's Development Services Department. Monies deposited in the fund shall be used solely for the production or rehabilitation of *SRO hotel rooms* or the conversion of nonresidential *structures* to *SRO hotel rooms*.

**§143.0512 SRO Hotel Tenant Relocation Requirements**

- (a) General Requirement. The City shall not issue a permit to demolish, convert, or rehabilitate all or any part of an *SRO hotel* or *SRO hotel rooms* until the *applicant* has executed a *relocation assistance agreement* with the *Housing Commission* and has submitted a *tenant relocation plan* for the *Housing Commission's* review and approval, and until the *Housing Commission* has verified full compliance with this section.
- (b) Tenant List. An *applicant* who submits an *SRO owner application* seeking a permit to demolish, convert, or rehabilitate all or part of an *SRO hotel* or *SRO hotel rooms* shall, concurrent with the filing of the *SRO owner application*, submit to the *Housing Commission* a list of all tenants who resided in the *SRO hotel* within the 180-calendar-day period preceding the application filing date.
- (c) Conflict of Laws. The relocation provisions in this division shall not apply to the extent that a proposed *development* is subject to any state or federal

law that requires the provision of greater relocation benefits and payments than required under this division.

(d) Relocation Assistance Notice. After a *final determination* is made in accordance with Section 143.0509 and before an *applicant* submits an application for a permit to the city for or related to the demolition, conversion, or rehabilitation of all or part of an *SRO hotel* or *SRO hotel rooms*, the *applicant* must deliver a *relocation assistance notice* to each tenant. The *relocation assistance notice* shall be based upon a form prescribed by the *Housing Commission* and shall clearly state the benefits established by Section 143.0512(e) for all tenants. Each *relocation assistance notice* shall be delivered to each tenant personally or by mail, and written acknowledgment of service on and receipt by each tenant shall be secured.

(e) Financial Assistance

(1) Each tenant of an *SRO hotel* to be demolished, converted, or rehabilitated who has resided in the *SRO hotel* for at least 90 consecutive calendar days preceding the date of the record owner's submittal to the city for a permit to demolish, convert, or rehabilitate an *SRO hotel*, shall be considered a long-term tenant for purposes of this division and is entitled to the benefits and rights described in Section 143.0512(e) through (h). Each tenant who has resided in the *SRO hotel* for at least 30 consecutive calendar days preceding the permit application date is entitled to the benefits and rights described in Section 143.0512(f) through (h). Length of residency shall be calculated from the date of the tenant's initial occupancy to the date of submittal of the record owner's application to the city for a permit to demolish, convert, or rehabilitate the *SRO hotel*.

(2) Except as provided in Section 143.0512(e)(3), each long-term tenant that is permanently displaced is entitled to one lump sum payment in the amount of \$6,330, or three times the tenant's actual monthly rent, whichever is greater. Any long-term tenant determined by the *Housing Commission* to be a *special needs tenant* shall receive an additional \$2,000 as part of the lump sum payment. The amount of financial assistance benefits required to be paid to long-term tenants shall be updated periodically based on an indexing mechanism specified in the *SRO procedures manual*.

(3) The financial assistance benefits shall be paid by the *record owner* of the *SRO hotel* to the long-term tenant within five *business days* after written notice by the tenant that he or she will vacate the *premises* on a date specified by him or her, but no more than 30 calendar days in

advance of the move-out date. The *record owner* shall provide each long-term tenant with the *Housing Commission's* approved form of written move-out notice. The *record owner* shall provide the *Housing Commission* with a copy of the following: (1) all written move-out notices submitted by tenants; (2) checks demonstrating payment of the financial assistance benefits to all tenants; and (3) signed receipts from all tenants for those checks.

(4) If the *SRO hotel* is being rehabilitated, the financial assistance benefits required by this section need not be provided if comparable accommodations, as defined by the California Code of Regulations, are provided on or off the *premises* to the long-term tenants during the period of rehabilitation. The *record owner* shall give a right of first refusal to relocate to a rehabilitated unit to each long-term tenant who qualifies as *very low income*. When comparable living space is provided, the *applicant* shall pay each affected long-term tenant all reasonable moving and related expenses.

(f) Technical Assistance. The *Housing Commission* shall provide assistance in locating decent, safe, and affordable housing opportunities to tenants who have resided in the *SRO hotel* for at least 30 consecutive calendar days.

(g) Notice of Termination of Tenancy. To terminate a tenancy for the purpose of demolition, conversion, or rehabilitation of an *SRO hotel* or *SRO hotel room* regulated under this division, the *record owner* must fully comply with the *SRO hotel* relocation provisions in this section. The notice of termination of tenancy may not be given before the date of the relocation assistance notice required by Section 143.0512(d).

(h) Eviction. With respect to any *standard pre-1990 SRO hotel*, in addition to the tenant list required by Section 143.0512(b), the *applicant* shall submit to the *Housing Commission* a list of the names of any tenants who have moved, been removed, or evicted during the preceding 180 calendar days and the reasons for the move, removal, or eviction.

#### **§143.0513 SRO Hotel Long-Term Tenant Rights**

A long-term tenant of an *SRO hotel*, as described in Section 143.0512(e)(1), who is injured by any violation of these regulations, shall be entitled to declaratory relief, injunctive relief, and damages in a civil action. Counsel for the aggrieved party shall provide written notice to the Office of the City Attorney of the City of San Diego of any action filed pursuant to this section.

#### **§143.0514 SRO Hotel Preservation**

- (a) Intent to Sell. If the *record owner* of an *SRO hotel* wishes to enter into a proposed transaction to sell, transfer, or exchange the *SRO hotel*, the *record owner* must first provide the City's Chief Operating Officer and the *Housing Commission's* President with written notice of the proposed transaction at least 180 days prior to consummating the proposed transaction. The City and the *Housing Commission* shall promptly endeavor to provide written notice of the proposed transaction to nonprofit corporations with experience in constructing or operating affordable housing projects, including those entities identified as housing sponsors in the list maintained by the City for notices of availability of surplus land in accordance with the California Surplus Land Act. Within 45 calendar days after the date of the *record owner's* written notice, any nonprofit corporation with experience in constructing or operating affordable housing projects may deliver a written purchase offer to the *record owner*, in which event the *record owner* must negotiate in good faith for at least 60 calendar days with any interested nonprofit corporation for a sale transaction restricting the occupancy and affordability of the *SRO hotel rooms* for households earning less than or equal to 60 percent of the area median income, as adjusted for household size, for a term of at least 30 years. If the good faith negotiations do not result in a signed contract for the transaction within the 60-day period or if the transaction contemplated by the signed contract is terminated in accordance with the terms of the contract, the *record owner* may consummate a transaction with any third party for the sale, transfer, or exchange of the *SRO hotel* within one year after the later of the date on which the 60-day negotiation period expires or the date on which the signed contract is terminated. If a transaction with a third party is not consummated within the applicable one-year period, the *record owner* must comply with the provisions of this subsection 143.0514(a) with respect to any future proposed transaction for the sale, transfer, or exchange of the *SRO hotel*.
- (b) Partial Conversion. The *record owner* of an *SRO hotel* may submit an *SRO owner application* to the *Housing Commission* seeking to convert only a portion of the *SRO hotel rooms* to another use or combine *SRO hotel rooms* for purposes of providing additional baths or toilets or adding other amenities that would require increased rents on a portion of the *premises*, in exchange for agreeing to record affordability covenants on remaining *SRO hotel rooms* for a period of 30 years.
- (c) Rehabilitation Financing. Any *record owner* of an *SRO hotel* or *SRO hotel rooms* shall be eligible for rehabilitation financing from the *Housing Commission*, when sufficient funds are available, for purposes of preserving an *SRO hotel* or *SRO hotel rooms*, in exchange for agreeing to contractual terms acceptable to the *Housing Commission*, which may include one or more of the following: (1) recording affordability covenants on the *SRO hotel* or *SRO hotel rooms* for a period as determined by the applicable funding sources utilized but in no event less than 10 years; (2) complying with a replacement requirement; or (3) granting to the *Housing Commission* a first right of refusal to purchase the *SRO hotel* on commercially reasonable terms should the

*record owner* wish to pursue a transaction in which the *SRO hotel* or *SRO hotel rooms* would be sold, demolished, or converted to another use.

- (d) Receiver site. The *record owner* of an *SRO hotel* may receive compensation as a receiver site by providing affordability covenants on *SRO hotel rooms* for any other *development* that has either a housing replacement requirement under this division or an affordability requirement in accordance with Section 142.1307 (part of the Inclusionary Affordable Housing Requirements).
- (e) Sale of Unused Site Density. Where an *SRO hotel* is located on a *premises* that allows a higher density than what is utilized by the *SRO hotel*, the *record owner* may sell the unused density to a third party as long as all of the sale proceeds are used to rehabilitate the *SRO hotel*.
- (f) Welfare Property Tax Exemption. Where the *record owner* of an *SRO hotel* desires to continue renting to low-income residents, the *record owner* may create a nonprofit management entity to operate the *SRO hotel* and enter into a written agreement with the *Housing Commission* for the recording of covenants restricting the occupancy and affordability of the *SRO hotel rooms* for households earning less than or equal to 80 percent of the area median income, as adjusted for household size, in which event the *record owner* will be eligible for the Welfare Property Tax Exemption upon application to and certification by the County of San Diego's Board of Equalization.
- (g) Other Allowable Adjustments for Project Feasibility. The *Housing Commission*, in its reasonable discretion and upon a showing of good cause from the *applicant*, may grant any combination of additional project adjustments to make a project involving an *SRO hotel* or *SRO hotel rooms* economically feasible. The *applicant* shall provide financial and other information that the *Housing Commission* determines is necessary to evaluate whether good cause exists for the additional project adjustments.
- (h) The *record owner* of any *standard pre-1990*, *exempt pre-1990*, or *post-1990 SRO hotel* who voluntarily elects to receive a *direct financial contribution* from the City or the *Housing Commission*, including but not limited to the forms of consideration described in subsections (b), (c), (d), (e) or (g) of this section, shall be subject to the *affordable housing agreement* requirements set forth in the *SRO procedures manual*.

**§143.0515 Variance, Waiver, Adjustment or Reduction of SRO Hotel Regulations**

- (a) A variance, adjustment, or reduction from the provisions of this division may be requested and decided in accordance with Process Four. A waiver from the provisions of this division may be requested and decided in accordance with Process Five. Any variance, waiver, adjustment, or reduction shall require that the findings in either Section 143.0516(a) or Section 143.0516(b) be made.

- (b) An application for a variance, waiver, adjustment, or reduction shall be filed in accordance with Section 112.0102 of the City's Land Development Procedures and shall include financial and other information that the City Manager determines is necessary to perform an independent evaluation of the *applicant's* basis for the variance, waiver, adjustment or reduction.

**§143.0516 Findings for Variance, Waiver, Adjustment or Reduction Approval**

- (a) The decision maker may approve or conditionally approve an application for a variance, waiver, adjustment, or reduction of the applicability of the provisions of this division only if the decision maker makes all of the following findings:
  - (1) Special circumstances, unique to that *development*, justify granting the variance, waiver, adjustment, or reduction;
  - (2) The *development* would not be feasible without the modification;
  - (3) A specific and substantial financial hardship would occur if the variance, waiver, adjustment, or reduction were not granted; and
  - (4) No alternative means of compliance are available which would be more effective in attaining the purposes of this division than the relief requested.
- (b) The decision maker may approve or conditionally approve an application for a variance, waiver, adjustment or reduction to the provisions of this division if the decision maker makes a finding that there is an absence of any reasonable relationship or nexus between the impact of the *development* and the amount the fee or the level of the requirement to be imposed on the *development*.