

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



October 29, 2012

**Th21a**

**TO:** **COMMISSIONERS AND INTERESTED PERSONS**

**FROM:** **SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT**  
**DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT**

**SUBJECT:STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR LCP  
AMENDMENT NO. SAN-MAJ-4-11-A (Community Gardens) for Commission  
Meeting of November 15, 2012**

**SYNOPSIS**

The subject LCP implementation plan amendment was submitted and filed as complete on August 18, 2011 and the Commission granted a one year time extension for the item at its November 2011 hearing. As such, the item must be heard and acted on by the Commission at this hearing. This report addresses only one part of the submittal; a separate report on the second part of the original submittal (LCPA No. CCP-MAJ-4-11-B) regarding the adoption of a new Downtown Community Plan and amended planned district ordinances for the Centre City planning area is also agendized for the November hearing.

**SUMMARY OF AMENDMENT REQUEST**

The City of San Diego has submitted the subject implementation plan amendment in order to expand the number of zones where community gardens would be permitted by right or with an approved discretionary permit. As presently certified, community gardens are allowed as a “separately regulated agriculture use” with a Neighborhood Use Permit in most residential zones. The proposed amendment would allow them as a “Limited Use” by right in all residential zones. Relative to commercial zones, community gardens are not a currently permitted use but with the proposed amendment, they would be allowed as “Limited Use” by right in all commercial zones and planned districts. With this amendment, the City is also proposing to amend the “use regulations” for community gardens. The proposed regulations would allow on-site sales of unprocessed, non-value-added products from the gardens in only commercial or industrial zones. The proposed amendment includes new “best practice standards” relative to composting and water conservation measures. Finally, relative to the protection of any on-site or adjacent sensitive resources, the City’s regulatory process requires adherence to the City’s Environmentally Sensitive Lands Ordinance and the proposed regulations require compliance with the City’s Multiple Habitat Planning Area (“MHPA”) Land Use Adjacency Guidelines.

## **SUMMARY OF STAFF RECOMMENDATION**

In general, community gardens would be a land use supported under the Coastal Act as a community resource, valuable open space and a form of passive recreation. The various land use plans certified in the City of San Diego include broad support for such gardens, pocket parks and open space. However, the one area of possible concern relates to the establishment of a community garden on or adjacent to a site containing sensitive resources. Issues relative to drainage, use of pesticides, lighting, invasive plant control and fencing could all become a concern in those instances. As mentioned above, the City's regulatory review for community gardens would still require compliance with the City's Environmentally Sensitive Lands ("ESL") Ordinance. The purpose of the ESL regulations is to assure that development occurs in a manner that protects the overall quality of the resources, the natural and topographic character of the area and retains biodiversity and interconnected habitats. The City then also sought to augment resource protection by requiring compliance with the MHPA Land Use Adjacency Guidelines of the City's Multiple Species Conservation Plan ("MSCP") Subarea Plan. These guidelines seek to minimize impacts to and maintain the function of the MHPA preserve; the guidelines address drainage, toxics, lighting, barriers and invasive plants among other items. Unfortunately, in adopting the proposed ordinance, the incorrect cross-reference for the guidelines was adopted. Therefore, staff recommends that the Commission first deny the proposed amendment as submitted and then approve it with a suggested modification to incorporate the correct citation for the MHPA Land Use Adjacency Guidelines. In this manner, adequate resource protection measures will be applied and the LCP amendment can be supported.

The appropriate resolutions and motions begin on Page 4. The suggested modification can be found on Page 5. The findings for denial of the Implementation Plan Amendment as submitted begin on Page 5. The findings for approval of the plan, if modified, begin on Page 8.

## **BACKGROUND**

The City's first Implementation Plan (IP) was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) that includes Chapters 11 through 14 of the municipal code. It replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP Amendment No 4-11A may be obtained from Deborah Lee, District Manager, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC), and associated documents, as the City's IP, replacing the original IP adopted in 1988. The LDC became effective in January, 2000.

### **B. STANDARD OF REVIEW**

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

### **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS**

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION I:** *I move that the Commission reject the Implementation Program Amendment for the City of San Diego as submitted.*

### **STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan(s). Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. **MOTION II:** *I move that the Commission certify the Implementation Program Amendment for the City of San Diego if it is modified as suggested in this staff report.*

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications,

conforms with and is adequate to carryout the certified Land Use Plan(s). Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

### **PART III. SUGGESTED MODIFICATIONS**

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. **Section 141.0203, Community Gardens**, subsection (g)(3) of the City's Land Development Code shall be revised as follows:

Community gardens are *premises* that are used for crop cultivation by individuals or collectively, and may be divided into multiple plots. Community gardens are permitted as a limited use in the zones indicated with an "L" and may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. [...]

(g) Best practice standards shall be used for the following garden operations. [...]

(3) Community gardens shall comply with the MHPA Land Use Adjacency Guidelines of the ~~Land Development Manual Biology Guidelines~~ City of San Diego MSCP Sub-area Plan. [...]

### **PART IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT FOR COMMUNITY GARDENS, AS SUBMITTED**

#### **A. AMENDMENT DESCRIPTION**

The City of San Diego has submitted the subject citywide implementation plan amendment in order to expand the number of zones where community gardens would be permitted by right or with an approved discretionary permit. Specifically, through the adoption of Ordinance Number O-20065, on July 6, 2011, the City would be allowing community gardens in additional zones and streamlining the current regulatory review where they are already allowed. As presently certified, community gardens are allowed as a "separately regulated agriculture use" with a Neighborhood Use Permit in most

residential zones. The proposed amendment would allow them as a “Limited Use” by right in all residential zones. Relative to commercial zones, community gardens are not currently permitted but with the proposed amendment, they would also be allowed as “Limited Use” by right in all commercial zones and planned districts. With this amendment, the City is also proposing to amend the “use regulations” for community gardens. The proposed regulations would allow on-site sales of unprocessed, non-value-added products from the gardens in only commercial or industrial zones. The proposed amendment includes new “best practice standards” relative to composting and water conservation measures. Finally, relative to the protection of any on-site or adjacent sensitive resources, the proposed regulations require compliance with the City’s Multiple Habitat Planning Area (“MHPA”) Land Use Adjacency Guidelines.

## **B. SPECIFIC FINDINGS FOR REJECTION**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

### **1) Purpose and Intent of the Ordinance.**

The purpose of the proposed ordinance revisions is to support the development of community gardens in the City and expedite their review. The proposed ordinance amendment would include use-specific regulations that, when implemented, are expected to reduce impacts to allow the use as a limited use by right or with an approved discretionary permit.

### **2) Major Provisions of the Ordinance.**

The major provision of the proposed ordinance was to revise the Use Regulations Tables for Residential and Commercial zones to allow community gardens as a limited use by right or subject to a discretionary permit. Other provisions include the following:

- Allowance for on-site sales of unprocessed, non-value-added products grown on site in only commercial or industrial zones;
- Drainage provisions;
- Permanent signage, including contact information for a responsible party, at the property;
- Refuse storage and screening requirements;
- Safe storage of equipment, fertilizers and materials at the site;
- Composting and water conservation measures; and
- Compliance with the MHPA Land Use Adjacency Guidelines of the City’s MSCP.

### **3) Adequacy of the Ordinance to Implement the Certified LUP Segments.**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s). In the case of the City of San Diego, it has developed community planning areas based

on its established neighborhoods and future urbanizing area. Predicated on those community planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). Each community plan or LCP Land Use Plan contains policies that protect sensitive coastal resources including, but not limited to, environmentally sensitive lands in that community. The Commission's review of the proposed changes to the Land Development Code must assure that development is approved only when consistent with the certified LCP.

Listed below are typical resource protection policies contained in the certified Land Use Plan segments in the Coastal Overlay Zone for the City of San Diego.

#### **Torrey Pines Community Plan**

- Construction or improvements of roadways adjacent to biologically sensitive areas or open space shall be designed to avoid impacts, especially in wetlands and wetland buffer areas. Protection of sensitive habitats through buffers, realignments and reduced development areas shall also be considered.
- Protect, preserve and enhance the variety of natural features within the San Dieguito River Valley including the floodplain, the open waters of the lagoon and river, wetlands, marshlands and uplands.

#### **Mira Mesa Community Plan**

- No encroachment shall be permitted into wetlands, including vernal pools. [...]

#### **La Jolla LCP Land Use Plan**

- The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline.

In general, other than improvements to existing structures and uses, repair and maintenance activities or temporary events, most “new development” within the City’s Coastal Zone Overlay (i.e. the coastal zone) requires a coastal development permit which is a discretionary permit. The installation of a community garden on a vacant lot would constitute a change in land use and need a coastal development permit. For any new development, including the establishment of a community garden, the discretionary review process will be the same process as that which would have been required for any proposal.

In the case of a proposed development within the coastal zone also occurring on a site where environmentally sensitive lands are present, a Site Development Permit would also be required by the ESL Ordinance. The ESL regulations apply to sensitive biological resources; steep hillsides; coastal beaches; sensitive coastal bluffs and special flood hazard areas. Based on the certified policies of the City's land use plans, the ESL regulations establish the various resource protection measures and development standards in the LDC. The ESL regulations mandate the preservation of wetlands, the provision of wetland buffers and the protection of sensitive hillsides and habitat areas. These regulations are very rigorous and define specifically what the requirements are for development on a site that contains any of these resources. So, in addition to the findings required for the issuance of any coastal development permit, if applicable, the findings necessary to support issuance of a site development permit under the ESL Ordinance would also have to be met to establish a community garden on a site containing sensitive habitat or resources. The proposed development must meet the findings of each of the respective permit processes or the development cannot be approved.

In addition, the City sought to augment the resource protection measures within the proposed community garden regulations. In Section 141.0203, subsection (g)(3), the City proposed the inclusion of "best practice standards" for community gardens. Specifically, the proposed language stated that "community gardens shall comply with the MHPA Land Use Adjacency Guidelines of the ***Land Development Manual Biology Guidelines***" (emphasis added). By doing so, the provisions for community gardens when proposed on property *adjacent* to sensitive habitat or resources was being supplemented. The Land Use Adjacency Guidelines provide controls on drainage and runoff, toxics, lighting and invasive plants, among other issues; the Guidelines are attached as Exhibit No. 3. The guidelines require measures such as the installation of detention basins, grass swales and shielded lighting when warranted. However, in crafting the proposed ordinance language, the incorrect cross-reference to the actual Guidelines was adopted. So, unfortunately, if an individual was to go the Land Development Manual's Biology Guidelines, you would not find the "Land Use Adjacency Guidelines". They are actually found in the City's MSCP Sub-Area Plan. Absent the correct reference being included in the proposed community garden regulations, the Commission cannot be assured that sensitive coastal resources will be afforded full protection. Therefore, in order to ensure that the appropriate resource protection standards are considered and imposed, as applicable, the submitted ordinance must be rejected as submitted.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO  
IMPLEMENTATION PLAN AMENDMENT FOR COMMUNITY  
GARDENS, IF MODIFIED**

The proposed implementation plan amendment would allow community gardens in additional zones and streamline the current regulatory review where they are already allowed. In general, community gardens and urban farms are being promoted as one element of sustainable living and supporting local food sources. The City of San Diego

General Plan identifies community gardens as having the ability to “contribute to community development, environmental awareness, positive social interaction, community education and general health.” As noted above, in general, community gardens would be a land use supported under the Coastal Act. The one area of possible concern would be the establishment of a community garden on or adjacent to a site containing sensitive resources. As modified herein to incorporate the correct cross-reference to the Land Use Adjacency Guidelines (Suggested Modification #1), appropriate resource protection measures will be assured.

In addition, relative to the park and recreational opportunities and the maintenance of adequate open space, there are a number of certified land use plan provisions that are also applicable as follows:

**La Jolla Community Plan** (Community Facilities, Parks and Services)

- Provide adequate park and recreational facilities, libraries, schools, fire and police protection and parking to meet the needs of community residents and visitors, including children, families and the elderly.

**Pacific Beach Community Plan** (Parks and Open Space)

- Provide sufficient community park and recreational facilities to meet the needs of the existing and future resident population.
- Increased Recreational Opportunities: The Park and Recreation Department shall redevelop Farnum Elementary School as an “interim” community park until funding for construction of the new library is obtained. Consider relocating the Pacific Beach Community Gardens to the library site if the parcel and landscape design permit.

**Ocean Beach Precise Plan** (Public Facilities Element)

- Parks and Recreation – Develop additional active and passive recreational facilities in and adjacent to the Ocean Beach community.

**Peninsula Community Plan** (Parks and Recreation)

- Provide improved passive park amenities for the increasing middle aged and elderly population in Peninsula.
- Evaluate feasibility of developing park and recreation facilities on portions of school site no longer being used for educational purposes.
- Vacant lots should be inventoried in Roseville, Ocean Beach Highlands and Loma Portal to determine the feasibility of providing sites for mini-parks in these park-deficient neighborhoods.

All of these provisions support expanded parks, recreational opportunities and protection of open space throughout the City; they further recognize the need to also utilize creative ways to meet the open space and recreational needs of each community, including pocket parks, community gardens and/or mini-parks. In summary, as modified to ensure the application of the MHPA Land Use Adjacency Guidelines and afford needed resource protection measures, the City’s proposed amendment to broaden the allowance for

community gardens and revise their operational provisions can be found consistent with the certified land use plans. As such, the Commission finds the amendment request can be approved.

**PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. When the original community gardens ordinance was adopted, the City certified an Environmental Impact Report (No. 96-0333/SCH 960810560) for the proposal. In evaluating the currently proposed amendment, the City found that increasing the number of locations in the city where community gardens may be developed as a limited use would not result in additional impacts beyond those originally identified and therefore the current amendment did not constitute a significant or substantial change in the project. The City therefore found the proposed ordinance would not result in new impacts or changed circumstances that would require a new environmental document. Given the nature of community gardens, along with the additional limitations placed on the use and their operation, the Commission finds that no adverse impacts to coastal resources are anticipated.

RESOLUTION NUMBER R-306601DATE OF FINAL PASSAGE FEB 23 2011

CH-4 2/1

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
DIEGO INITIATING AMENDMENTS TO THE COMMUNITY  
GARDEN REGULATIONS OF THE PLANNED DISTRICT  
ORDINANCES AND LOCAL COASTAL PROGRAM.

WHEREAS, the City Council is being asked to initiate amendments to the City's Planned District Ordinances and Local Coastal Program; and

WHEREAS, the initiation will allow City staff to begin the process of analyzing and amending the planned district ordinances with regards to community gardens; and

WHEREAS, it is anticipated that the amendments will allow community gardens in commercial zones as a limited use (by right, provided the garden complies with specified standards); and

WHEREAS, staff will also analyze current standards for community gardens to identify possible modifications and seek public input on potential reductions in the approval process for residential zones; and

WHEREAS, when the analyses, environmental review, and draft amendment language are complete the draft amendment will be presented to the Community Planners Committee (CPC), the Code Monitoring Team (CMT), and the Planning Commission for recommendations, and forwarded to the City Council for a decision; and

WHEREAS, for planned district ordinances within the Coastal Overlay Zone, the final decision will be with the California Coastal Commission; NOW, THEREFORE,

*SAN-MAT-4-11A  
Community Gardens  
Council Resolution  
EXHIBIT #1*

BE IT RESOLVED, by the Council of the City of San Diego that the initiation of the amendments to the community garden regulations of the Planned District Ordinances and Local Coastal Program is authorized.

APPROVED: JAN I. GOLDSMITH, City Attorney

By *Signature on File* SMT  
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
02/01/11  
Or.Dept:Council District 1  
R-2011-675  
PL#2011-05604

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 14 2011.

ELIZABETH S. MALAND  
City Clerk  
*Signature on File*  
By \_\_\_\_\_  
Deputy City Clerk //

*Signature on File*  
JERRY SANDERS, Mayor

Approved: 2-23-11  
(date) JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date) JERRY SANDERS, Mayor

Passed by the Council of The City of San Diego on FEB 14 2011, by the following vote:

Councilmembers	Yea	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FEB 23 2011

Date of final passage \_\_\_\_\_.

JERRY SANDERS

Mayor of The City of San Diego, California.

AUTHENTICATED BY:

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

*Signature on File*

By \_\_\_\_\_, Deputy

*DDJ*

Office of the City Clerk, San Diego, California

306601

Resolution Number R-\_\_\_\_\_

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: Struck Out**

**NEW LANGUAGE: Underlined**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 1,  
DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTION 131.0422; BY AMENDING CHAPTER  
13, ARTICLE 1, DIVISION 5, SECTION 131.0522; BY  
AMENDING CHAPTER 14, ARTICLE 1, DIVISION 2,  
SECTION 141.0203; BY AMENDING CHAPTER 15, ARTICLE  
1, DIVISION 4, SECTION 151.0401; AND BY AMENDING  
CHAPTER 15, ARTICLE 5, DIVISION 2, SECTION 155.0238  
ALL RELATING TO COMMUNITY GARDEN PERMITS.

**Article 1: Base Zones**

**Division 4: Residential Base Zones**

**§131.0422 Use Regulations Table for Residential Zones**

The uses allowed in the residential zones are shown in the Table 131-04B.

**Legend for Table 131-04B**

[No change in text.]

SAN-MAJ-4-1A  
Community Gardens  
Strikeout Ordinance  
EXHIBIT #2

**Table 131-04B**  
**Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
		1st & 2nd >>	RE-	RS-						RX-	RT-													
	3rd >>	1-	1-						1-	1-														
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
<b>Open Space [No change in text.]</b>																								
<b>Agriculture</b>																								
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No change in text.]																								
<b>Separately Regulated Agriculture Uses</b>																								
Agricultural Equipment Repair Shops		-							-															
Commercial Stables		-							-															
Community Gardens		NL							NL															
Equestrian Show & Exhibition Facilities		-							-															
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-							-															
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>																								

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones													
		1st & 2nd >>	RM-												
	3rd >>	1-	2-	3-	4-	5-	6	7	8	9	10	11	12		
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12		
<b>Open Space [No change in text.]</b>															
<b>Agriculture</b>															
Agricultural Processing through Raising, Maintaining & Keeping of Animals [No change in text.]															
<b>Separately Regulated Agriculture Uses</b>															
Agricultural Equipment Repair Shops		-							-						
Commercial Stables		-							-						
Community Gardens		NL							NL						
Equestrian Show & Exhibition Facilities		-							-						
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-							-						
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>															

Footnotes for Table 131-04B [No change in text.]

**Article 1: Base Zones****Division 5: Commercial Base Zones****§131.0522 Use Regulations Table of Commercial Zones**

The uses allowed in the commercial zones are shown in Table 131-05B.

**Legend for Table 131-05B**

[No change in text.]

**Table 131-05B  
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator  1st & 2nd >> 3rd >> 4th >>	Zones				
		CN <sup>(1)</sup> -		CR-		CO-
		1-		1-	2-	1-
		1	2	3	1	1
<b>Open Space [No change in text.]</b>						
<b>Agriculture</b>						
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>						
<b>Separately Regulated Agriculture Uses</b>						
Agricultural Equipment Repair Shops		-	P	P	-	-
Commercial Stables		-	-	-	-	L
Community Gardens		-L	-L	-L	-L	-L
Equestrian Show & Exhibition Facilities		-	-	-	-	C
Open Air Markets for the Sale of Agriculture-related Products & Flowers		-	-	-	-	-
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>						

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator  1st & 2nd >> 3rd >> 4th >>	Zones				
		CC-				
		1-	2-	3-	4-	5-
		1 2 3	1 2 3	4 5	1 2 4 5	1 2 3 4 5
<b>Open Space [No change in text.]</b>						
<b>Agriculture</b>						
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>						
<b>Separately Regulated Agriculture Uses</b>						
Agricultural Equipment Repair Shops		P	P	-	P	P

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator 1st & 2nd >> 3rd >> 4th >>	Zones									
		CC-									
		1-	2-	3-	4-	5-					
		1	2	3	4	5	1	2	4	5	1
Commercial Stables		-	-	-	-	-					-
Community Gardens		-L	-L	-L	-L	-L					-L
Equestrian Show & Exhibition Facilities		-	-	-	-	-					-
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-	-	-	-	-					-
Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]											

Footnotes for Table 131-05B [No change in text.]

### Article 1: Separately Regulated Use Regulations

#### Division 2: Agriculture Use Category--Separately Regulated Uses

##### §141.0203 Community Gardens

Community gardens are *premises* that are used divided into multiple plots for crop cultivation by individuals parties or collectively, and may be divided into multiple plots. Community gardens are permitted as a limited use in the zones indicated with an "L" and may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) The on On-site sales are permitted as follows: of produce is not permitted

(1) On-site sales are permitted only in commercial and industrial zones.

(2) Where on-site sales are permitted, sales are subject to the following:

(A) Onsite sales are limited to the sale of unprocessed, non value-added products grown on site; and

(B) All sales must be conducted in compliance with laws regulating onsite sales of products grown in the community garden.

- (b) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent property to effectively handle all drainage onsite.
- (c) A minimum 34-foot-wide, clearly marked entrance path shall be provided from the *public right-of-way* to the garden.
- (d) ~~A permanent fence shall be provided on the perimeter of the garden. Any fence within the front yard or street side yard shall be an open space. The fence shall be at least 5 feet in height and shall not exceed 6 feet in height. The fence shall include at least one access gate. Except as otherwise provided in this paragraph, fences shall be in compliance with Chapter 14, Article 2, Division 3 (Fence Regulations).~~
- (d) A permanent sign, including, but not limited to, the name and contact information of the party responsible for the garden shall be posted at the primary entry path adjacent to the *public right-of-way*. The sign shall comply with the requirements of Section 142.1250(c).
- (e) Refuse storage areas shall be provided and *screened* to enclose all refuse generated from the garden. Refuse areas shall be located as close as practicable to the ~~rear and~~ center of the property. Refuse shall be removed from the site at least once a week.
- (f) Storage areas for tools, fertilizers, equipment, and other material shall be enclosed and located as close as practicable to the ~~rear and~~ center of the property.

(g) ~~A water meter and hose bibs shall be provided on site consistent with Chapter 14, Article 2, Division 4 (Landscape Regulations). Irrigation water rates will apply to community gardens.~~

(g) Best practice standards shall be used for the following garden operations:

(1) Composting

- (A) Composting may be performed onsite
- (B) Composting materials shall only be those materials:
  - (i) generated onsite, or
  - (ii) contributed by active members of the community

garden

- (C) Composting areas shall be located as close as practicable to the center of the property

(2) Water use

- (A) Irrigation water rates shall apply to community gardens
- (B) Community gardens shall include the following water conserving techniques:
  - (i) mulch shall be applied to exposed soils in planting areas;
  - (ii) soil amendments shall include water retaining matter;
  - (iii) water shall be applied only to the base of plants; and
  - (iv) all hoses shall be equipped with a trigger nozzle

- (C) Watering of plants shall comply with the watering schedule in Section 67.3803

(3) Community gardens shall comply with the MHPA Land Use Adjacency Guidelines of the Land Development Manual Biology Guidelines.

- (h) Hours of operation shall be limited to the hours between sunrise and sunset. as set forth by the National Oceanic and Atmosphere Administration for the San Diego area.
- (i) The property shall be looked during non-operating hours.
- (j) The applicant shall execute and file with the County Recorder a hold harmless and/or indemnification agreement in favor of the City.

### **Article 1: Planned Districts**

#### **Division 4: General and Supplemental Regulations**

##### **§151.0401 Uses Permitted in the Planned Districts**

- (a) [No change in text.]
- (b) Limited Uses
- (1) [No change in text.]
- (2) The following uses are permitted in the planned districts subject to the regulations for limited uses in the Land Development Code section specified for each use and the location restrictions specified for each use.
- (A) [No change in text.]
- (B) Community gardens in residential and commercial zones,  
subject to Land Development Code Section 141.0203
- (C) Garage and yard sales in residential zones, subject to Land Development Code Section 141.0305

- (CD) Home occupations in residential zones, subject to Land Development Code Section 141.0308
- (DE) Large family day care homes in zones where residential use is permitted, except in agricultural zoned areas of the Coastal Overlay Zone that contain the 100-year floodplain, subject to Land Development Code Section 141.0606
- (EE) Recycling facilities as follows:
- (i) through (v) [No change in text.]
- (c) through (f) [No change in text.]

**Article 5: Planned Districts**

**Division 2: Central Urbanized Planned District**

**§155.0238 Use Regulations Table of CU Zones**

The uses allowed in the CU zones are shown in Table 155-02C:

**Legend for Table 155-02C**

[No change in text.]

**Table 155-02C**  
**Use Regulations Table for CU Zones**

Use Categories/ Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
		CU-							
	1st & 2nd >>	1-(1)		2-		3-			
	3rd >>	1	2	3	4	5	3 <sup>(2)(12)</sup>	6	7
	4th >>								8
<b>Open Space [No change in text.]</b>									
<b>Agriculture</b>									
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>									
<b>Separately Regulated Agriculture Uses</b>									
Agricultural Equipment Repair Shops	-		P			P			
Commercial Stables	-		-			-			
Community Gardens	N <u>L</u>		- <u>L</u>			- <u>L</u>			
Equestrian Show & Exhibition Facilities	-		-			-			
Open Air Markets for the Sale of Agriculture- Related Products & Flowers	-		-			-			
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>									

Footnotes to Table 155-02C [No change in text.]

ST:als  
 05/17/2011  
 06/02/2011 COR.  
 06/10/2011 REV.  
 Or.Dept:DSD  
 PL#2011-06200

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# MULTIPLE SPECIES CONSERVATION PROGRAM

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**City of San Diego  
MSCP Subarea Plan**

**March 1997**



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**SAN-MAJ-4-1A  
Land Use Adacency  
Guidelines  
EXHIBIT #3**

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3. No riprap, concrete, or other unnatural material shall be used to stabilize river, creek, tributary, and channel banks within the MHPA. River, stream, and channel banks shall be natural, and stabilized where necessary with willows and other appropriate native plantings. Rock gabions may be used where necessary to dissipate flows and should incorporate design features to ensure wildlife movement.



#### **1.4.3 Land Use Adjacency Guidelines**

Land uses planned or existing adjacent to the MHPA include single and multiple family residential, active recreation, commercial, industrial, agricultural, landfills, and extractive uses. Land uses adjacent to the MHPA will be managed to ensure minimal impacts to the MHPA. Consideration will be given to good planning principles in relation to adjacent land uses as described below. The following are adjacency guidelines that will be addressed, on a project-by-project basis, during either the planning (new development) or management (new and existing development) stages to minimize impacts and maintain the function of the MHPA. Implementation of these guidelines is addressed further in **Section 1.5, Framework Management Plan**. Many of these issues will be identified and addressed through the CEQA Process.

##### **Drainage**

1. All new and proposed parking lots and developed areas in and adjacent to the preserve must not drain directly into the MHPA. All developed and paved areas must prevent the release of toxins, chemicals, petroleum products, exotic plant materials and other elements that might degrade or harm the natural environment or ecosystem processes within the MHPA. This can be accomplished using a variety of methods including natural detention basins, grass swales or mechanical trapping devices. These systems should be maintained approximately once a year, or as often as needed, to ensure proper functioning. Maintenance should include dredging out sediments if needed, removing exotic plant materials, and adding chemical-neutralizing compounds (e.g., clay compounds) when necessary and appropriate.

##### **Toxics**

2. Land uses, such as recreation and agriculture, that use chemicals or generate by-products such as manure, that are potentially toxic or impactive to wildlife, sensitive species, habitat, or water quality need to incorporate measures to reduce impacts caused by the application and/or drainage of such materials into the MHPA. Such measures should include drainage/detention basins, swales, or holding areas with non-invasive grasses or wetland-type native vegetation to filter out the toxic materials. Regular maintenance should be provided. Where applicable, this requirement should be incorporated into leases on publicly owned property as leases come up for renewal.

### **Lighting**

3. Lighting of all developed areas adjacent to the MHPA should be directed away from the MHPA. Where necessary, development should provide adequate shielding with non-invasive plant materials (preferably native), berthing, and/or other methods to protect the MHPA and sensitive species from night lighting.

### **Noise**

4. Uses in or adjacent to the MHPA should be designed to minimize noise impacts. Berms or walls should be constructed adjacent to commercial areas, recreational areas, and any other use that may introduce noises that could impact or interfere with wildlife utilization of the MHPA. Excessively noisy uses or activities adjacent to breeding areas must incorporate noise reduction measures and be curtailed during the breeding season of sensitive species. Adequate noise reduction measures should also be incorporated for the remainder of the year.

### **Barriers**

5. New development adjacent to the MHPA may be required to provide barriers (e.g., non-invasive vegetation, rocks/boulders, fences, walls, and/or signage) along the MHPA boundaries to direct public access to appropriate locations and reduce domestic animal predation.

### **Invasives**

6. No invasive non-native plant species shall be introduced into areas adjacent to the MHPA.

### **Brush Management**

7. New residential development located adjacent to and topographically above the MHPA (e.g., along canyon edges) must be set back from slope edges to incorporate Zone 1 brush management areas on the development pad and outside of the MHPA. Zones 2 and 3 will be combined into one zone (Zone 2) and may be located in the MHPA upon granting of an easement to the City (or other acceptable agency) except where narrow wildlife corridors require it to be located outside of the MHPA. Zone 2 will be increased by 30 feet, except in areas with a low fire hazard severity rating where no Zone 2 would be required. Brush management zones will not be greater in size than is currently required by the City's regulations. The amount of woody vegetation clearing shall not exceed 50 percent of the vegetation existing when the initial clearing is done. Vegetation clearing shall be done consistent with City standards and shall avoid/minimize impacts to covered species to the maximum extent possible. For all new development, regardless of the ownership, the brush management in the Zone 2 area will be the responsibility of a homeowners association or other private party.

For existing project and approved projects, the brush management zones, standards and locations, and clearing techniques will not change from those required under existing regulations.

### **Grading/Land Development**

8. Manufactured slopes associated with site development shall be included within the development footprint for projects within or adjacent to the MHPA.

## **1.5 FRAMEWORK MANAGEMENT PLAN**

### **1.5.1 Management Goals and Objectives**

The habitat management aspect of the City of San Diego's MHPA is an important component of the MSCP, related to the goal of the Program. The overarching MSCP goal is to maintain and enhance biological diversity in the region and conserve viable populations of endangered, threatened, and key sensitive species and their habitats, thereby preventing local extirpation and ultimate extinction, and minimizing the need for future listings, while enabling economic growth in the region.

Where land is preserved as part of the MSCP through acquisition, regulation, mitigation or other means, management is necessary to continue to ensure that the biological values are maintained over time, and that the species and habitats that have been set aside are adequately protected and remain viable.

The City will be responsible for and will continue the management and maintenance of its existing public lands (including those with conservation easement), at current levels. The City will also manage and maintain lands obtained as mitigation where those lands have been dedicated to the City in fee title or easement, and land acquired with regional funds within the City's MHPA boundaries. Likewise, the federal and state agencies will manage, maintain and monitor their present land holdings, as well as those they acquire on behalf of the MSCP, consistent with the MSCP. Lands in the MHPA which are set aside as open space through the development process but are not dedicated in fee to the City, or other acceptable entity, will be managed by the landowner consistent with approved mitigation, monitoring and reporting programs or permit conditions. Private owners of land within the MHPA, who are not third party beneficiaries, will have no additional obligations for the management or maintenance of their land.

In order to assure that the goal of the MHPA is attained and fulfilled, management objectives for the City of San Diego MHPA are as follows:

1. To ensure the long-term viability and sustainability of native ecosystem function and natural processes throughout the MHPA.