

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
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SAN DIEGO, CA 92108-4421
(619) 767-2370



Th15a

November 21, 2013

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 LCP AMENDMENT
No. SAN-MAJ-2-13B (Microbreweries) for Commission Meeting of December 11-
12, 2013**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on August 20, 2013. At the October 2013 Commission hearings, a one year time extension was granted. As such, the last date for Commission action on this item is the October 2014 hearing. This report addresses one component of the submittal; the second and unrelated item, City of San Diego LCP Amendment #2-13A (8th Update to LDC) is scheduled for Commission review at a later date (tentatively January 2014).

SUMMARY OF AMENDMENT REQUEST

The City has adopted code amendments to modify the use regulations for industrial zones, specifically Section 131.0623 of the Land Development Code (LDC) to allow larger restaurants or tasting rooms in association with microbreweries than would otherwise be allowed in the zoning code. Specifically, the proposed ordinance would allow manufacturers of malt beverages or distilled spirits to develop an accessory restaurant or tasting room up to a maximum of 25% of the gross floor area dedicated to manufacturing. In order to benefit only bonafide craft beer and spirits production facilities and avoid creating a loophole for restaurants with limited on-site manufacturing production, the proposed allowance for a restaurant larger than the existing zone limit (3,000 sf. in most industrial zones) would only be applicable to facilities at least 12,000 sf. in size. The ordinance is applicable to industrial zones only and there are no other modifications being proposed to the development standards. The proposed ordinance does not affect residential neighborhoods or the development of stand-alone restaurants or brew pubs.

SUMMARY OF STAFF RECOMMENDATION

For the City of San Diego's Local Coastal Program, the Land Development Code (LDC) constitutes the primary element of the City's certified implementation plan and it represents an integrating feature for the multiple community plan/land use planning areas.

The proposed code amendments will facilitate the development of restaurants or tasting rooms as accessory uses to microbreweries in the City's industrial zones.

Microbreweries are classified as a light manufacturing use and they are permitted in most industrial zones including the light industrial, heavy industrial, small lot industrial and some industrial park zones. Currently, restaurants are limited in most industrial zones to a maximum of 3,000 sf. in gross floor area, a limitation which the City wants to modify at this time in order to encourage the expansion and retention of the craft beer and microbrewery industries. The larger craft beer manufacturers are adding full-service restaurants to new or expanded breweries in order to introduce more customers to their products manufactured on the same premises.

Communities in the coastal zone with industrial zoning include Barrio Logan, Downtown/Centre City, Mira Mesa, Pacific Beach, San Ysidro, Torrey Pines and University. At this time, there are no existing microbreweries that encompass 12,000 sf. or more that could utilize the proposed code amendment within the coastal zone. However, a prospective developer could in the future assemble such acreage and propose a microbrewery with an associated restaurant or tasting room. Under the Coastal Act, restaurants or tasting rooms would be viewed as a priority, visitor-serving use which serves as an amenity to support coastal visitors and activates a coastal destination. Each of the City's certified community plans/LUPs contain provisions that encourage and support visitor-serving uses. The proposed code amendments do not modify any of the otherwise required development standards, such as parking or landscaping. All of the industrial zones are located outside the Beach Impact Area which includes the two to three blocks along the coast where parking demand is the highest. Therefore, the proposed amendment can be found consistent with the City's certified land use plans and no adverse impacts to any coastal resources, including public access, are anticipated. Staff therefore recommends the Commission approve the proposed LCP amendment as submitted.

The appropriate resolution and motion may be found on Page 4. The findings for approval of the Implementation Plan Amendment as submitted also begin on Page 4.

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 #2-13B may be obtained from **Deborah Lee**, District Manager, at (619) 767-2370.

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 move that the Commission reject the Implementation Program Amendment for the City of San Diego #2-13B as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted 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 IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of San Diego as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plans, and certification of the Implementation Program Amendment will meet the requirements of 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 or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The City is proposing to modify the use regulations for industrial zones, specifically Section 131.0623 of the Land Development Code (LDC) to allow larger restaurants or tasting rooms in association with microbreweries than would otherwise be allowed in the zoning code. Specifically, the proposed ordinance would allow manufacturers of malt beverages or distilled spirits to develop an accessory restaurant or tasting room up to a maximum of 25% of the gross floor area dedicated to manufacturing. In order to benefit only bonafide craft beer and spirits production facilities and avoid creating a loophole for restaurants with limited on-site manufacturing production, the proposed allowance for a restaurant larger than the existing zone limit (1,000 to 3,000 sf. in most industrial zones) would only be applicable to facilities at least 12,000 sf. in size. The ordinance is

applicable to industrial zones only and there are no other modifications being proposed to the development standards. The proposed ordinance does not affect residential neighborhoods. In addition, the development of other stand-alone restaurants or brew pubs would continue to be allowed as a primary use in all commercial zones and most industrial zones but they would not be allowed to exceed the spatial limit in industrial zones, unless developed as an accessory use to a beverage manufacturer with at least a 12,000 sf. facility.

B. FINDINGS FOR APPROVAL

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. The proposed amendment would facilitate the establishment of restaurants or tasting rooms primarily related to the growing craft beer and microbrewery industries in San Diego County. The request relates to a broader City of San Diego effort to try and encourage both the establishment of new breweries and the retention of existing facilities within the City. The proposed changes to the use regulations are only applicable to the industrial zones and would allow larger restaurants or tasting rooms, up to 25% of the square footage of the manufacturing facility, as accessory uses where the existing code would generally only allow restaurants or eating establishments up to 3,000 sf. in size. No other changes to the development regulations, such as landscaping or parking standards, of the industrial zones are being made.

Within the Coastal Zone, there are industrially zoned properties within the Barrio Logan, Centre City, Mira Mesa, Pacific Beach, San Ysidro, Torrey Pines and University communities. However, at this time, there are no existing microbreweries that encompass 12,000 sf. gross floor area or more within the coastal zone and the proposed amendment would therefore have no immediate impact. Nonetheless, parcels could be assembled over time to pursue this opportunity.

These facilities are visitor-serving uses that are supported under the Coastal Act as developments that activate destinations and attract coastal visitors. Each of the City's land use plans contain provisions that prioritize visitor-serving uses. No changes are being proposed to the landscaping and parking standards that would continue to apply to any future development proposal. All of the City's existing industrially-zoned properties lie outside of the Beach Impact Area, the overlay area that encompasses the two to three blocks immediately along the shoreline where parking is most critical. As such, the Commission finds that these code amendments are consistent with the City's certified land use plans in that they will provide for the establishment of priority, visitor-serving uses and no adverse impacts to coastal access or resources are expected. Therefore, the proposed amendment may be approved as submitted.

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

Section 21080.9 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 Coastal Commission and 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 to CEQA provisions. At the local level, the City found that the environmental review completed at the time of the original adoption of the Land Development Code remained valid and sufficient. The City concluded that the proposed amendment would not result in a substantially changed project, would not result in new impacts or changed circumstances that would require a new environmental document. In the case of the subject LCP amendment request, the Commission also finds that approval of the LCP amendment, as submitted, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act. Therefore, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for any impacts which have not been explored and the LCP amendment, as submitted, can be supported.

ORDINANCE NUMBER O- 20262 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 05 2013

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 1,
DIVISION 6 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 131.0623, RELATING TO
ADDITIONAL USE REGULATIONS OF INDUSTRIAL
ZONES.

WHEREAS, microbreweries are classified as a light manufacturing use, and are permitted in most industrial zones, including the light industrial, heavy industrial, small lot industrial, and some industrial park zones; and

WHEREAS, restaurants are currently limited in most industrial zones to a maximum of 3,000 square feet in gross floor area; and

WHEREAS, larger craft beer manufacturers are adding full-service restaurants to new or expanded breweries in order to introduce more customers to their products; and

WHEREAS, the current limitations on restaurant square footage in these zones could inhibit the growth of the industry; and

WHEREAS, the proposed amendments to Municipal Code section 131.0623 will allow for manufactures of malt beverages or distilled spirits to develop an accessory restaurant or tasting room up to a maximum of 25 percent of the total gross floor area;

NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Coded is amended by amending section 131.0623 to read as follows:

City of San Diego
LCFA # 2-13B
(Microbreweries)

§131.0623 Additional Use Regulations of Industrial Zones

The uses in this Section are permitted in the industrial zones where indicated in Table 131-06B, subject to the following regulations.

- (a) [No change in text.]
- (b) Eating and drinking establishments are permitted subject to the following:
 - (1) Individual establishments are limited to 3,000 square feet of *gross floor area*, except where provided in accordance with Section 131.0623(i);
 - (2) [No change in text.]
 - (3) [No change in text.]
- (c) through (g) [No change in text.]
- (h) Convenience stores and eating and drinking establishments are permitted subject to the following:
 - (1) An individual establishment shall not exceed 1,000 square feet of *gross floor area*; except where provided in accordance with Section 131.0623(i);
and
 - (2) [No change in text.]
 - (i) Industrial *development* greater than 12,000 square feet of *gross floor area* that is primarily engaged in the manufacturing of malt beverages or distilled spirits in sealed cans, bottles, or kegs, may include an eating and drinking establishment as an *accessory use*, subject to applicable state and

local regulations, if the eating and drinking establishment does not exceed 25 percent of the *gross floor area* of the *structures* on the *premises*.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That prior to becoming effective, this ordinance shall be submitted to the San Diego County Regional Airport Authority (SDCRAA) for a consistency determination.

If the SDCRAA finds this ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station (MCAS) Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports, this ordinance shall take effect and be in force as of the date of the finding of consistency by the SDCRAA Board, provided that and not until at least 30 days have passed from the date of final passage, except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

If the SDCRAA determines that this ordinance is inconsistent or conditionally consistent, subject to proposed modifications with the ALUCPs for San Diego International Airport, MCAS Miramar, Gillespie Field, Montgomery Field, or Brown Field Airports, the ordinance shall be submitted to the City Council for reconsideration.

If the SDCRAA determines that this ordinance is conditionally consistent with the ALUCPs for San Diego International Airport, MCAS Miramar, Gillespie Field, Montgomery

Field, or Brown Field Airports, but that consistency is subject to proposed modifications, the City Council may amend this ordinance to accept the proposed modifications, and this ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

If the SDCRAA determines this ordinance is inconsistent with the ALUCPs for San Diego International Airport, MCAS Miramar, Gillespie Field, Montgomery Field, or Brown Field Airports, a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote; the proposed decision and findings shall be forwarded to the SDCRAA, California Department of Transportation, Division of Aeronautics, and the airport operators for the San Diego International Airport, MCAS Miramar, Gillespie Field, Montgomery Field, or Brown Field Airports; and the City Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote. Then, this ordinance shall take effect and be in force thirty days from the date of the final decision to overrule the determination of inconsistency except that the provisions of this ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local

Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

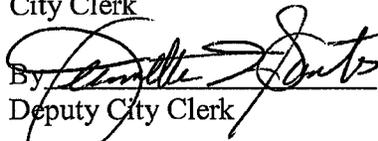
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Corrine L. Neuffer
Deputy City Attorney

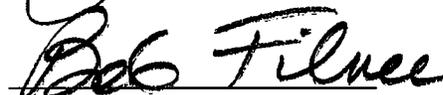
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03/20/2013
Or.Dept: DSD
O-2013-69
Doc. No. 544176

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 6/4/13.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 6/5/13
(date)


BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

Passed by the Council of The City of San Diego on JUN 04 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 05 2013.

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Annelle J. Santos*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAY 14 2013

, and on JUN 05 2013.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By _____, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20262</u>

STRIKEOUT ORDINANCE

OLD LANGUAGE – ~~Strikeout~~

NEW LANGUAGE – Double Underlined

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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AMENDING SECTION 131.0623, RELATING TO
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 - (2) [No change in text.]
 - (3) [No change in text.]
- (c) through (g) [No change in text.]
- (h) Convenience stores and eating and drinking establishments are permitted subject to the following:

City of San Diego
LERA # 2-13B
(Microbreweries)
Strike-out text

- (1) An individual establishment shall not exceed 1,000 square feet of *gross floor area*, except where provided in accordance with Section 131.0623(i);
and
- (2) [No change in text.]
- (i) Industrial development greater than 12,000 square feet of gross floor area that is primarily engaged in the manufacturing of malt beverages or distilled spirits in sealed cans, bottles, or kegs, may include an eating and drinking establishment as an accessory use, subject to applicable state and local regulations, if the eating and drinking establishment does not exceed 25 percent of the gross floor area of the structures on the premises.

CLN:js
03/20/2013
Or. Dept: DSD
O-2013-69
Doc No. 522594