

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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RECORD PACKET COPY



February 27, 2001

Tue 8b

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: PETER DOUGLAS, EXECUTIVE DIRECTOR

SUBJECT: **CITY OF SAN DIEGO DE MINIMIS LOCAL COASTAL PROGRAM AMENDMENT NO. 7-2000 (Land Development Code/Second Quarterly Update)** (For Commission review at its meeting of March 12 - 16, 2001)

The Coastal Act was amended January 1, 1995 to provide for a more streamlined method to review amendments to local coastal programs. Section 30514(d) allows the Executive Director to make a determination that a proposed LCP amendment is de minimis in nature. The Executive Director must determine that the proposed amendment: 1) has no impact, either individually or cumulatively, on coastal resources; 2) is consistent with the policies of Chapter 3; and 3) does not propose any change in land use or water use or any change in the allowable use of property. Section 30514(d) requires the local government to notice the proposed de minimis LCP amendment 21 days prior to submitting it to the Executive Director either through: 1) publication in a newspaper of general circulation; 2) posting onsite and offsite the area affected by the amendment; or 3) direct mailing to owners of contiguous property. If the Executive Director makes the determination that the proposed amendment qualifies as a "de minimis" amendment and finds the public notice measures have been satisfied, such determination is then reported to the Commission for its concurrence.

PROPOSED AMENDMENT

The City of San Diego has submitted an LCP amendment package which includes as one component a Second Quarterly Update to the Land Development Code (LDC). The LDC is the certified Implementation Plan for the City of San Diego Local Coastal Program. The proposed LCP amendment includes a number of changes to the LDC, some of which are minor in nature and serve only to correct or clarify references and exhibits, correct misspelled words, or make interpretive clarifications. The changes addressing telecommunication facilities will result in a revised process for review of such projects by the City, without significant changes to the standards for such review. These elements have been separated from the major LCP amendment submittal and are being processed as de minimis LCP amendments. Following is a summary of the proposed changes along with a brief explanation of the purpose for or intent of the change and a reason why it is de minimis pursuant to Section 30514 of the Coastal Act.

Section 113.0103 Definitions

Clarifies definition for *accessory structure* to acknowledge it is also a "building" as defined in the California Building Code;

In the definition for *sign*, changes reference from "public place" to "public right-of-way" to be consistent throughout the LDC.

Section 113.0234 Calculating Gross Floor Area

Revises existing text and Diagram 113-02O to clarify the existing code language for calculation of gross floor area when the structure includes recessed or partially recessed exterior balconies, roofed porches and patios. Gross floor area does not include 100 sq. ft. of the recessed element when the fourth side is at least 40% permanently open. No change in intent will result.

Section 113.0273 Measuring Visibility Area

Revises existing Diagram 113-02QQ to add clarifying symbols, i.e. property line, centerline of street and setback lines. No change in intent will result.

Section 126.0704(a)(2) Exemptions from a Coastal Development Permit

Corrects map number reference and corrects reference from County Recorder to City Clerk. No change in intent will result.

Section 126.0708 Findings for Coastal Development Permit Approval

Revises format for this section to be consistent with all other sections addressing findings. Clarifies the difference between findings that apply to all development requiring a coastal development permit, and the supplemental findings for projects involving a deviation from the environmentally sensitive lands regulations within the coastal overlay zone. No change in intent or application will result.

Section 131.0125(b)(2) Accessory Use Regulations for All Base Zones

Clarifies the existing code language that requires any accessory use must comply with the use and development regulations of the zone where the use is permitted. No change in intent will result.

Section 131.0422 Use Regulations for Residential Zones

Revises Table 131-04B to require Neighborhood Use Permit for minor telecommunication facilities where currently none is required. Change in process only.

Section 131.0622 Use Regulations Table for Industrial Zones

Amends Table 131-06B to add a "P" indicating "agriculture related supplies and equipment" is a permitted Separately Regulated Retail Sales Use in the industrial zone. This is not resulting in a change in land use. The "P" was inadvertently omitted and the column left blank. A non-permitted use is indicated by a "-" in the column.

Section 132.0403 Supplemental Use Regulations of the Coastal Overlay Zone

Deletes "Use" in the title to this section because it is incorrect. No change in intent.

Section 132.1402 Where the Community Plan Implementation Overlay Zone Applies

Deletes reference to College Area in Table 132-14A and Diagram 132-14B as a location where this overlay applies. The overlay has been replaced by the College Community Master Plan; however, this location is outside the coastal zone and thus, this change represents no impact on coastal resources.

Section 141.0405 Communication Antennas

Clarifies the types of facilities these regulations don't apply to, such as amateur radio facilities and single dish antennas. The changes clarify these facilities must comply with all development regulations of the underlying zone and overlay(s) and add general rules which apply to telecommunication facilities addressing federal regulations and hours for maintenance. There are also changes to the process for City review of antenna facilities and associated equipment proposed in a public right-of-way adjacent to residentially zoned property, which will require a neighborhood use permit. Since review of such facilities within the public right-of-way adjacent to non-residentially zoned properties is ministerial, there is a requirement for ground-mounted equipment to be undergrounded unless the equipment is integrated into the architecture or the surrounding environment and a conditional use permit is granted. The proposed changes require a neighborhood use permit for minor telecommunication facilities and clarify that such facilities are not permitted on all residentially zoned properties, not just single family zones. Additionally, as currently written, the regulations require a conditional use permit for satellite antennas exceeding 10 ft. in diameter. The proposed change would allow such structures by right as an accessory use in industrial zones because industrial uses typically have such antennas for communication purposes. Other minor modifications include changing all references from "properties" to "premises".

The proposed changes to the regulations addressing telecommunication facilities result in a change in process for City review of such facilities and clarify the applicable regulations. Although the revised regulations may serve to limit installation of minor telecommunication facilities in some residential areas where they may now be permitted,

these changes do not result in a change of land use for any property and the facilities will not be permitted in any areas where they are currently prohibited. There is no change to the potential for impact to coastal resources.

Section 142.0133 Slope Gradient

Deletes the allowance for 1 ½ : 1 cut slopes because the industry standard is generally no steeper than 2:1. The existing regulations already allow for the City Engineer to authorize steeper slopes when extraordinary conditions exist. The proposed changes would clarify such exceptions would be subject to a geotechnical report and are permitted only if such slopes are landscaped in accordance with a plan prepared by a landscape architect. No potential for impact or change in land use.

Section 142.0134 Retaining Walls and Structurally Enhanced Fill

Deletes the reference to reinforced earth or structurally enhanced fill slopes to be considered retaining walls, which the City considers an error in terminology. No potential for impact or change in land use.

Section 142.0310 General Fence Regulations for All Zones

Adds new diagram 142-03D to clarify the existing code language to show the amount of open or closed fencing required depending on the location of the fence from the front or street side property line; revises references to renumbered exhibits accordingly; and removes internal conflict in section (e). No change in intent will result.

Section 142.0340 Retaining Wall Regulations in All Zones

Adds reference to already existing Diagram 142-03B to clarify the horizontal and vertical offset requirement for retaining walls. No change in intent will result.

Section 142.0530 Nonresidential Uses – Parking Ratios

Corrects Table 142-05D and 142-05E to refer to zones CR 2-1 instead of CR 1-2 which does not exist; and removes footnotes 4 and 5 which are not utilized in the tables. No change in intent.

Section 142-0560 Development and Design Regulations for Parking Facilities

Corrects the spelling of “restaurant” in Diagram 142-05B

Section 142.0210 General Sign Regulations

Clarifies existing code language to assure that public interest messages on signs must be sponsored by non-profit or charitable organizations. No change in intent.

The City Council resolution that approves and conveys the proposed de minimis LCP amendment is attached. The components of the LCP amendment which are not being processed as de minimis have been crossed out for purposes of this exhibit and will be processed as part of Major LCP Amendment #6-2000. The LCP amendment was approved by the City Council on December 12, 2000. The amendment was properly noticed through newspaper publication and direct mail and there are no known interested parties. The amendment request was received in the Commission office on December 21, 2000 and is not yet complete for processing; however, in a letter dated January 26, 2001, the City requested that the subject de minimis component be separated from the major amendment submittal and processed as expeditiously as possible. The de minimis component was then set for the next available Commission agenda.

DISCUSSION

The City of San Diego LCP consists of land use plans for the twelve LCP segments and a single implementation program for the entire coastal zone area within the City. It has been effectively certified since 1988, with a few remaining areas of deferred certification. The Commission has processed many amendments to the LCP since its original certification; most of these have been certified, some as submitted and some with suggested modification.

The revisions to the Land Development Code addressed in this action are de minimis in nature. They include minor reformatting, text or diagram changes to clarify existing code language, or, in the case of telecommunication facilities, the changes result in a different process for review of such projects by the City. The proposed de minimis changes do not change land uses or have any potential for impact to coastal resources. All proposed de minimis modifications are consistent with Chapter 3 of the Coastal Act.

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. Instead, the CEQA responsibilities are assigned to 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 with CEQA provisions. In the case of the subject LCP amendment request, the Commission finds that approval of the de minimis 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 such impacts which have not been explored and the de minimis LCP amendment, as submitted, can be supported.

DETERMINATION

The Executive Director determines that the City of San Diego LCP amendment is de minimis. Based on the information submitted by the City, the proposed LCP amendment will have no impact, either individually or cumulatively, on coastal resources. It is consistent with the policies of Chapter 3 of the Coastal Act. The amendment does not propose any change in land use or any change in the allowable use of property. The City has properly noticed the proposed amendment. As such, the amendment is de minimis pursuant to Section 30514(d).

MOTION:

I move that the Commission concur with the Executive Director's determination that the LCP amendment, as submitted, is de minimis.

STAFF RECOMMENDATION:

The Executive Director recommends that the Commission **concur** in this determination. Unless three or more members of the Commission object to this determination, the amendment shall become effective and part of the certified LCP ten (10) days after the date of the Commission meeting.

(R-2001-898)

RESOLUTION NUMBER R- 294393

ADOPTED ON DEC 12 2000

A RESOLUTION AUTHORIZING THE CITY MANAGER TO
SUBMIT THE CITY OF SAN DIEGO'S LOCAL COASTAL
PROGRAM AMENDMENTS TO THE CALIFORNIA
COASTAL COMMISSION.

WHEREAS, on December 9, 1997, the Council of the City of San Diego adopted the Land Development Code of the City of San Diego pursuant to Ordinance No. O-18451 (New Series); and

WHEREAS, the California Coastal Act (Public Resources Code section 30000 et seq.) requires California Coastal Commission [CCC] certification of zoning ordinances, zoning maps, and in sensitive coastal areas, other implementing actions to implement the approved local coastal plan; and

WHEREAS, the relevant portions of the Land Development Code as identified by Council Resolution No. R-289461 were submitted to the CCC for approval; and

WHEREAS, on January 1, 2000, the Land Development Code, as effectively certified by the CCC, became effective; and

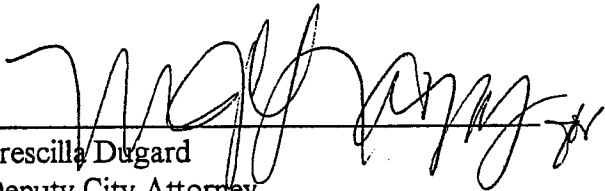
WHEREAS, in the first two years of implementation of the Land Development Code, the City Council has directed the City Manager to prepare updates to address problem issues and make needed corrections; NOW, THEREFORE,

EXHIBIT 1
DEMINIMUS CHANGES
UPDATE TO LDC
DEC 12 2000

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is directed to submit updates to the Land Development Code as approved by City Council to the CCC for certification as required by the California Coastal Act.

APPROVED: CASEY GWINN, City Attorney

By



Prescilla Dugard
Deputy City Attorney

PD:cdk:lc
11/27/00
Or.Dept:P&DR
R-2001-898
Form=r&t.frm

CITY OF SAN DIEGO
DEMINIMUS LCPA # 7-2000
STRIKEOUT ORDINANCE

OLD LANGUAGE: Strikeout
NEW LANGUAGE: Underlined

(SO-2001-64)(REV. 1)

ORDINANCE NUMBER O- 18910

ADOPTED ON Jan 09, 2001

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER VI, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTION 62.0423; AMENDING CHAPTER 11, BY AMENDING ARTICLE 3, DIVISION 1, SECTION 113.0103; DIVISION 2, SECTIONS 113.0228, 113.0234 AND 113.0273; AMENDING CHAPTER 12, BY AMENDING ARTICLE 1, DIVISION 3, SECTION 121.0309; BY AMENDING ARTICLE 5, DIVISION 5, SECTIONS 125.0530, 125.0540, 125.0630, AND 125.0640; BY AMENDING ARTICLE 6, DIVISION 4, SECTION 126.0402; DIVISION 5, SECTIONS 126.0502 AND 126.0504; DIVISION 7, SECTIONS 126.0704 AND 126.0708; BY AMENDING ARTICLE 7, DIVISION 1, SECTIONS 127.0106 AND 127.0107; BY AMENDING ARTICLE 9, DIVISION 6, SECTION 129.0602; AMENDING CHAPTER 13, BY AMENDING ARTICLE 1, DIVISION 1, SECTIONS 131.0112 AND 131.0125; DIVISION 2, SECTION 131.0205; DIVISION 3, SECTIONS 131.0330 AND 131.0340; DIVISION 4, SECTIONS 131.0422 AND 131.0448; DIVISION 6, SECTIONS 131.0622 AND 131.0631; BY AMENDING ARTICLE 2, DIVISION 4, SECTIONS 132.0402, 132.0403; DIVISION 9, SECTION 132.0902; DIVISION 10, SECTION 132.1002; DIVISION 14, SECTION 132.1402; AMENDING CHAPTER 14, BY AMENDING ARTICLE 1, DIVISION 3, SECTION 141.0306; DIVISION 4, SECTION 141.0405; BY AMENDING ARTICLE 2, DIVISION 1, SECTIONS 142.0133, 142.0134 AND 142.0135; DIVISION 2, SECTION 142.0230; DIVISION 3, SECTIONS 142.0310 AND 142.0340; DIVISION 5, SECTIONS 142.0510, 142.0530, AND 142.0560; DIVISION 12, SECTION 142.1210; BY AMENDING ARTICLE 3, DIVISION 1, SECTIONS 143.0110, 143.0111, 143.0130, 143.0145, AND BY ADDING SECTION 143.0146; DIVISION 4, SECTIONS 143.0402, 143.0410, AND 143.0450; BY AMENDING TABLE 143-01A IN SECTION 143.0110(b) BY RENUMBERING SECTION

- PAGE 1 OF 55 -

(X portion subj. of SD LCPA #6-2000 Major Amendment)

EXHIBIT 2
DEMINUS CHANGES
UPDATE TO LDC
SD LCPA # 7-2000

143.0145(c) APPEARING WITHIN THE TABLE TO READ
SECTION 143.0146; ALL RELATING TO THE LAND
DEVELOPMENT CODE.

~~SEC. 62.0423 Areas of Special Flood Hazard~~

~~Areas of special flood hazard within the City of San Diego are hereby established in accordance with the report entitled "Flood Insurance Study, City of San Diego, California," dated June 19, 1997, published by the Federal Emergency Management Agency ("FEMA"), on file in the office of the City Clerk as Document No. OO-18453, including any supplements or amendments which are properly promulgated by FEMA or the Federal Insurance Administrator.~~

~~No person shall do or cause to be done any work, development, or construction covered under this division within an area of special flood hazard without having first obtained a grading permit. The issuance of a permit will be predicated upon either completion of flood control works with a capacity to contain the 100-year flood peak flow, the application of and compliance with appropriate floodplain regulatory zoning, or if it can be shown that a proposed development, work or construction complies with the provisions for flood hazard reduction in Council Policy 600-14.~~

SEC. 113.0103 Definitions

Abutting property [No change.]

Accessory building means an *accessory structure* which is also a "building" as defined in the California Building Code.

Accessory structure through Awning [No change.]

~~*Base Flood* means a flood having a one percent chance of being equaled or exceeded in any given year (also called "100-year flood").~~

~~Floodplain fringe means all that land in a 100-year floodplain not lying within a floodway, as shown on the Flood Hazard Boundary Maps.~~

~~Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodway also means the area within a 100-year floodplain Special Flood Hazard Area, as shown on the Flood Hazard Boundary Maps Flood Insurance Rate Maps, needed to carry a 100-year frequency flood within a theoretical channel without increasing the water surface elevation more than 1 foot at any point from that of a noneconfined 100-year frequency flood in the natural undeveloped floodplain, and having taken into consideration the cumulative effect of all existing and anticipated development in the watershed of the affected watercourse.~~

~~Floor through Off-street parking space [No change.]~~

~~100-year floodplain means the lands adjoining, and including, the channel of a river, stream, water course, bay, or other body of water that is subject to inundation by the flood waters of a 100-year frequency flood. The 100-year floodplain includes the floodway and floodplain fringe as identified in the flood hazard boundary maps.~~

~~100-year frequency flood means a flood that has a 1 percent probability of occurring in any given year, as determined by a statistical analysis of stream flow records available for the watershed and rainfall and run off characteristics of the region.~~

~~Open fence through Side street [No change.]~~

Sign means any identification, description, illustration, or device, illuminated or nonilluminated, that is visible from a public place the public right-of-way, or is located on private property and exposed to the public, and which directs attention to a product, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise with the exception of window displays, and any emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify, or convey information.

Sign, advertising display through Solid fence [No change.]

~~Special Flood Hazard Area means any 100-year floodplain or area inundated during a base flood as shown on the Federal Insurance Rate Map or Flood Hazard Boundary Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E (also referred to as the 100-year floodplain).~~

~~Specified anatomical areas through Substantial conformance [No change.]~~

Substantial improvement, for the purposes of Section 143.0146 means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the *market value* of the structure before the start of construction of the improvement.

Surface mining through Traditional cultural property [No change.]

Transit area means (1) the area within a one-quarter-mile radius of either public streets identified in Map No. C-846 on file in the office of the City Clerk as Document No. OO-17836 (or its successor maps) as having the location, mix of densities, mix of uses, and *development* patterns that can generate sufficient bus ridership to support a frequent and consistent level of bus service (as typified by a 10- and 15-minute frequency of service); or, (2) existing and proposed trolley stops and major bus transfer centers that have been approved for *development* by the Metropolitan Transit Development Board (MTDB) with identified, available funding, as identified in Map No. C-900 on file in the office of the City Clerk as Document No. OO-_____.

Unaccepted offer of dedication through Yard [No change.]

SEC. 113.0228 Determining Existing Grade

- (a) *Existing grade* is the ground elevation of the surface of a *premises* that has never been *graded* or, for a *premises* that has been *graded*, outside the Coastal Overlay Zone, the ground elevation that existed on March 4, 1972. Within the Coastal Overlay Zone, *existing grade* on *premises* that has been *graded* shall be determined pursuant to Section 113.0228 (b) and (c). This is illustrated in Diagram 113-02F.

[No change to remainder of section.]

SEC. 113.0234 Calculating Gross Floor Area

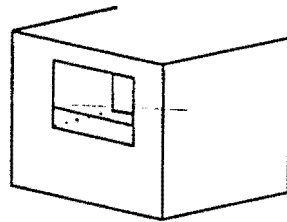
[No change to first paragraph.]

- (a) [No change.]

(b) Additional Elements Included in *Gross Floor Area* in Residential Zones and for Residential Development in Other Zones

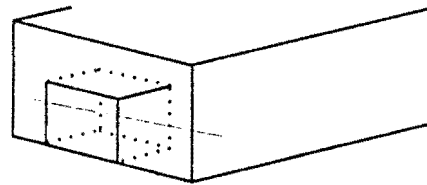
- (1) [No change.]
- (2) *Gross floor area* includes roofed porches, entrances, exterior balconies, and patios when (1) the element is recessed or partially recessed in the *structure* and surrounded or partially surrounded on three sides by the enclosed building, ~~except that *Gross floor area* does not include 100 square feet of the recessed portion of the element when the fourth elevation of the element is at least 40 percent permanently open, is not included in *gross floor area*, or (2) the elevation of the fourth side of the element is less than 40 percent open.~~ This is illustrated in Diagram 113-020.

Diagram 113-020
Recessed Porches and Balconies



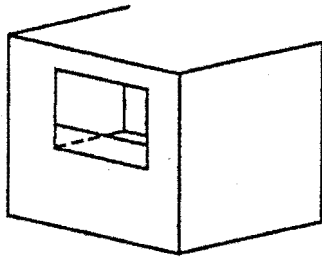
BALCONY

1 elevation at least 40% open, with building area on 3 sides (100 sq. Ft. of recessed portion of the element is not included in GFA. If recessed area is less than 100 sq. ft.



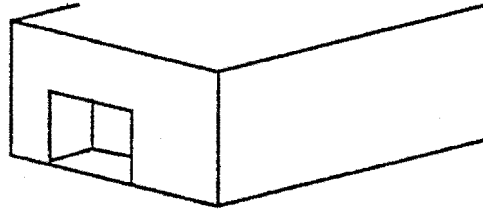
PORCH

1 elevation open, with building area on 3 sides (100 sq. ft. Of recessed portion of the element is not included in GFA if recessed area is less than 100 sq. ft.



BALCONY

1 elevation at least 40% open with building area on 3 sides (100 sq. ft. of recessed portion of the element is not included in GFA.)



PORCH

1 elevation open with building area on 3 sides (100 sq.ft. of recessed portion of the element is not included in GFA.)

(3), (4) and (5) [No change.]

(c) and (d) [No change.]

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(3), (4) and (5) [No change.]

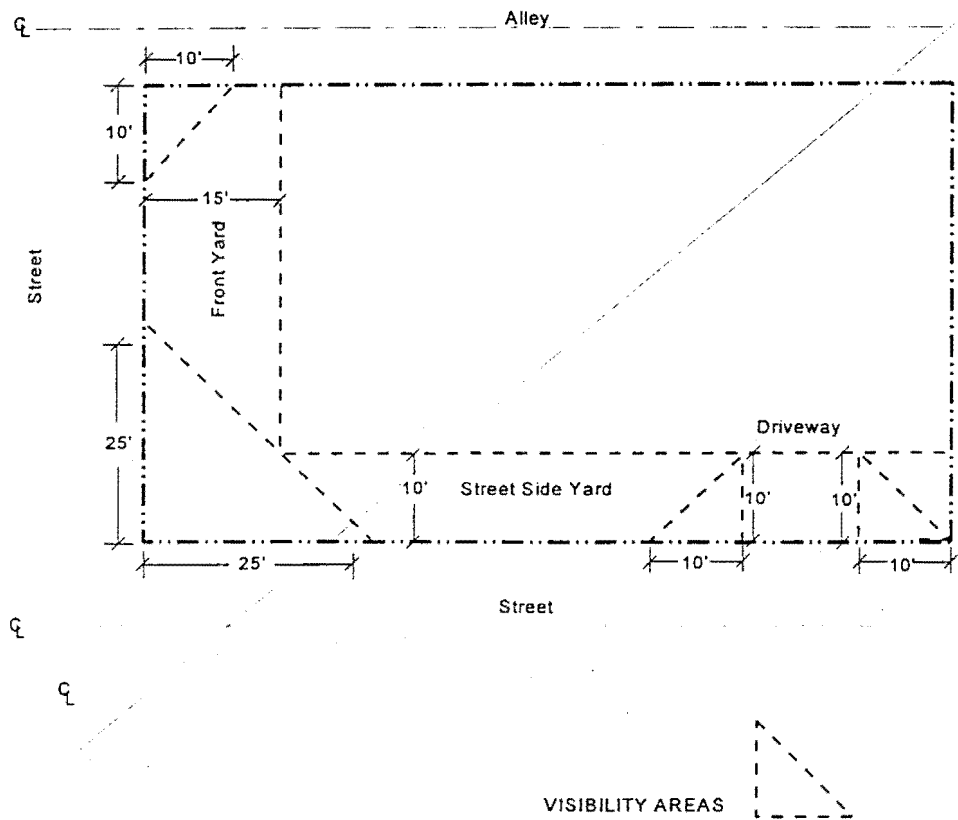
(c) and (d) [No change.]

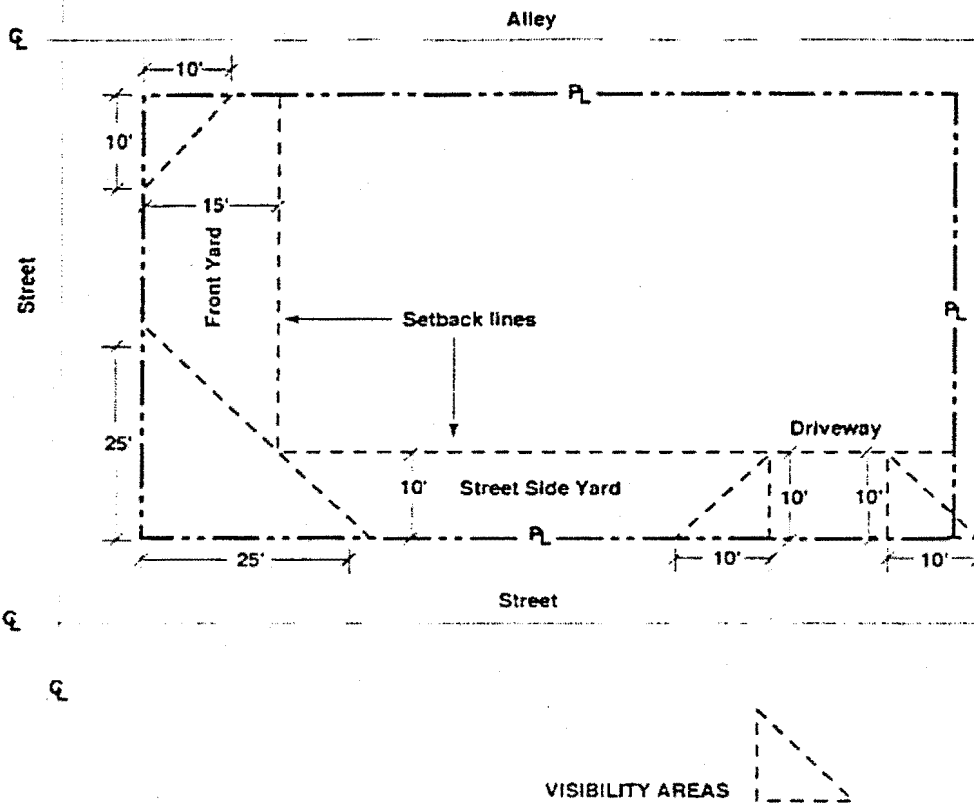
SEC. 113.0273 Measuring Visibility Area

[No change to first paragraph.]

(a) through (d) [No change.]

**Diagram 113-02QQ
Visibility Area**





~~SEC 121.0309 Procedure for Issuing a Stop Work Order~~

- ~~(a) and (b) [No change.]~~
- ~~(c) Appeal of Order. A Stop Work Order may be appealed to the City Manager. When the alleged violation involves the Building, Electrical, Plumbing, or Mechanical Regulations, the appeal shall be reviewed by the Building Official. All other appeals shall be reviewed by the Director of Development Services~~

8

SEC. 126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit.

(a) [No change in sentence.]

(1) [No change.]

(2) Improvements to any *structure* that would result in an increase of 10 percent or more of interior *floor* area or an additional improvement of 10 percent or less where an improvement to the structure had previously been exempted or an increase in building height by more than 10 percent where the *structure* is located between the sea and first public roadway paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater distance. The first public roadway is shown on Map No. ~~C-730~~ C-731 filed in the office of the County Recorder City Clerk as Document No. 00-17069.

(3) through (8) [No change.]

(b) through (h) [No change.]

SEC. 126.0708 Findings for Coastal Development Permit Approval

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the following findings in Section 126.0708(a) and the supplemental findings in Section 126.0708(b) that are applicable to the proposed development.

(a) Finding for all Coastal Development Permits

(a1) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*; and the proposed *coastal*

development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan*;

- (b2) The proposed *coastal development* will not adversely affect *environmentally sensitive lands*; and
- (e3) The proposed *coastal development* is in conformity with the certified *Local Coastal Program land use plan* and complies with all regulations of the certified Implementation Program.
- (d4) For every Coastal Development Permit issued for any *coastal development* between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the *coastal development* is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

- (eb) Supplemental *Findings* - Environmentally Sensitive Lands Within the Coastal Overlay Zone

[No change to remainder of section.]

SEC. 127.0106 Expansion or Enlargement of Previously Conforming Structures

- (a) through (c) [No change.]
- (d) Within the eCoastal Overlay Zone, if the proposal involves the demolition or removal of 50% or more of the exterior walls of an existing *structure*, the *previously conforming* rights are not retained for the new *structure*.

SEC. 127.0107 Change in Use of a Previously Conforming Use

- (a) [No change.]

(b) Within the Coastal Overlay Zone, if a change in use from a *previously conforming* use to another use within the same use category of the Use Regulation Tables of Chapter 13, Article 1 involves any intensification of use, the *previously conforming* rights are not retained for the new use.

(c) [No change.]

SEC. 129.0602 When a Grading Permit Is Required

A Grading Permit is required for the following work:

(a) and (b) [No change.]

(c) any grading within the ~~100-year floodplains~~ Special Flood Hazard Area.

(d) through (f) [No change.]

SEC. 131.0112 Descriptions of Use Categories and Subcategories

(a) [No change.]

(1) Open Space Use Category

[No change to first paragraph.]

(A) [No change.]

(B) Light Manufacturing -- Uses that process, fabricate, assemble, treat, or package finished parts or products without the use of explosive; or petroleum ~~or radioactive~~ materials. (This subcategory does not include the assembly of large equipment and machinery.)

(C) and (D) [No change.]

SEC. 131.0125 Accessory Use Regulations for All Base Zones

(a) [No change.]

(b) [No change in first sentence.]

(1) [No change.]

- (2) The use must ~~comply~~ be consistent with any use and development regulations applicable to that use in any other base zone in the same type of zone (open space, agricultural, residential, commercial, or industrial);

(3) through (5) [No change.]

(c) [No change.]

SEC. 131.0205 Purpose of the OF (Open Space--Floodplain) Zone

The purpose of the OF zone is to control *development* within *floodplains* to protect the public health, safety, and welfare and to minimize hazards due to *flooding* in areas identified by the *FIRM* on file with the City Engineer ~~City's floodplain administrator~~. It is the intent of the OF zone to preserve the natural character of *floodplains* while permitting *development* that will not constitute a dangerous condition or an impediment to the flow of *flood* waters. It is also the intent to minimize the expenditure of public money for costly *flood* control projects and to protect the functions and values of the *floodplains* relating to groundwater recharge, water quality, moderation of *flood* flows, wildlife movement, and habitat.

SEC. 131.0330 Development Regulations of Agricultural Zones

(a) through (c) [No change.]

(d) For development within the Del Mar Mesa Specific Plan area the development regulations identified in the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance 18537 shall apply.

SEC. 131.0340 Maximum Permitted Residential Density in Agricultural Zones

(a) [No change in sentence.]

(1) through (3) [No change.]

(4) Within the future urbanizing area, except within the Del Mar Mesa Specific Plan area, an increase in *density* of up to one dwelling unit per 4 acres of lot area may be requested through a Planned Development Permit in accordance with Process

~~Five subject to the regulations in Section 143.0402. The remainder of the premises shall be left undeveloped in perpetuity. For development within the Del Mar Mesa Specific Plan area, the rural cluster option is not available, and the maximum permitted density is that identified in the Del Mar Mesa Specific Plan adopted on May 27, 1997 by Ordinance 18337.~~

(b) [No change.]

SEC. 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.]

**Table 131-04B
Use Regulations Table of for 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
Institutional																							
Separately Regulated Institutional Uses																							
Communication Antennas:																							
Minor Telecommunication Facility			EN												EN		EN		EN				
Major Telecommunication Facility			C												C		C		C				
Satellite Antennas			L												L		L		L				

[No change to remainder of Table.]

SEC. 131.0448 Accessory Uses and Structures in Residential Zones

- (a) Multiple accessory buildings are permitted on a premises. However accessory uses within enclosed buildings the square footage of all accessory buildings cannot exceed are restricted to 25 percent of the permitted allowable gross floor area of the premises.
- (b) An accessory building in the RE, RS, and RX zones may have electrical, gas, and water/sewer connections to provide the following activities:
- (1) Lighting, washing machines, dryers, laundry tubs, and hot water heater;
 - (2) A one-half bathroom, limited to a water closet and a lavatory sink; and
 - (3) A shower, provided the property owner signs an agreement recorded with the County Recorder and processed through the City Manager stating that the building will not be used for living or sleeping purposes.
- (c) Accessory buildings in RE, RS, and RX zones may encroach into required yards subject to the following conditions:

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- ~~(B) A one-half bathroom, limited to a water closet and a lavatory sink; and~~
- ~~(C) A shower, provided the property owner signs an agreement recorded with the County Recorder and processed through the City Manager stating that the building will not be used for living or sleeping purposes.~~

SEC. 131.0622 Use Regulations Table for Industrial Zones

[No change in this section, except to Table 131-06B as indicated below.]

**Table 131-06C
Use Regulations Table ~~of~~for Industrial Zones**

Separately Regulated Retail Sales Uses									
Agriculture Related Supplies & Equipment	-	-	-	P	P	P	P	P	P

SEC. 131.0631 Development Regulations Table for Industrial Zones

The following development regulations apply in the industrial zones as shown in Table 131-06C.

**Table 131-06C
Development Regulations ~~of~~for Industrial Zones**

Development Regulations [See Section 131.0630 for Development Regulations of Industrial Zones]	Zone Designator	Zones							
		IP-		IL-			IH-		IS-
	1st & 2nd »	1-	2-	1-	2-	3-	1-	2-	1
3rd »	1		1			1		1	
4th »	1		1			1		1	
Max Floor Area Ratio		<u>2.0+0⁽¹⁾</u>		<u>2.0+0⁽¹⁾</u>			<u>2.0+0</u>		2.0

[No other changes to Table 131-06C.]

Footnotes for Table 131-06C

1 through 9 [No change.]

SEC. 132.0402 Where the Coastal Overlay Zone Applies

(a) and (b) [No change.]

**Table 132-04A
Coastal Overlay Zone Applicability**

Type of <i>Development Proposal</i>	Supplemental Development Regulations	Required Permit Type/ Decision Process
(1) <i>Coastal development</i> that is categorically excluded pursuant to order of the Coastal commission or that is exempted by Section 126.0704	<u>None See use and development regulations of the base zone and Chapter 14, Article 3, Division 1, Environmentally Sensitive Lands Regulations</u>	No permit required by this division
(2) Any <i>coastal development</i> within this overlay zone that is partially or completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area	See use and development regulations of the base zone and Chapter 14, Article 3, Division 1, <u>Environmentally Sensitive Lands Regulations</u>	Coastal Development Permit(s) are issued by the Coastal Commission and the City for their respective jurisdictions
(3) <i>Coastal development</i> in this overlay zone that is not exempt under (1) of this table or that is not in the area described in (2) of this table	See use and development regulations of the base zone and Chapter 14, Article 3, Division 1, <u>Environmentally Sensitive Lands Regulations</u>	Coastal Development Permit/Process Two or Three

SEC. 132.0403 Supplemental Use Regulations of the Coastal Overlay Zone

[No change to remainder of section.]

SEC. 132.0902 Where the Tandem Parking Overlay Zone Applies

(a) This overlay zone applies to property located within the boundaries shown on Map No.

C-846 903, filed in the office of the City Clerk as Document No. 00-17836

_____. These areas are shown generally on Diagram 132-09A.

(b) [No change to first paragraph.]

[No change to Table 132-09A.]

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SEC. 132.1402 Where the Community Plan Implementation Overlay Zone Applies

(a) [No change to first paragraph.]

**Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone**

Community Plan	Map Number Showing Boundaries of CPIOZ Area
Clairemont Mesa (See Diagram 132-14A)	C-771.1, B-3951
College Area (See Diagram 132-14B)	C-761.1
Linda Vista (See Diagram 132-14C)	C-750
Midway/Pacific Highway Corridor (See Diagram 132-14D)	C-782
Navajo (See Diagram 132-14E)	C-779
Pacific Beach (See Diagram 132-14F)	B-3737.1, B-3857
Peninsula (See Diagram 132-14G)	C-744, C-781
Rancho Bernardo (See Diagram 132-14H)	C-773.1
Rancho Penasquitos (See Diagram 132-14I)	B-4024
University (See Diagram 132-14J)	C-725, C-751.2
Uptown (See Diagram 132-14K)	C-780.2

(b) [No change.]

SEC. 141.0306 Guest Quarters

[No change in first paragraph.]

(a) through (k) [No change.]

(l) Off-street parking and access for a *premises* containing a guest quarters shall be provided as follows:

(1) [No change.]

(2) Off-street parking shall be provided at a rate of 1 space for each bedroom in the guest quarters.

(23) Off-street parking required for guest quarters shall not be located in the area between the *street wall* and the front *property line*.

(24) Access to the off-street parking from an unimproved *alley* is not permitted.

(m) [No change.]

SEC. 141.0405 Communication Antennas

(a) ~~This~~ Section 141.0405 regulates the following communication antennas. Amateur (HAM) radio facilities or temporary telecommunication facilities necessitated by natural or man-made disasters are not regulated as communication antennas. Section 141.0405 does not apply to single dish antennas smaller than 24 inches in diameter or to remote panel antennas less than 24 inches in length and in width, except when associated with another telecommunication facility.

(1) Minor telecommunication facilities: Antenna facilities used in wireless telephone services, paging systems, or similar services that comply with all development regulations of the underlying zone and overlay(s) and that meet the criteria in Section 141.0405(2e)(1) or (2).

(2) Major telecommunication facilities: Antenna facilities that do not meet the criteria for minor telecommunication facilities in Section 141.0505(2e)(1) or (2).

(3) [No change.]

(b) General Rules For Telecommunication Facilities

All telecommunication facilities must comply with the following requirements:

- (1) All approved telecommunication facilities must comply with the Federal standards for RF radiation in accordance with the Telecommunication Act of 1996 or any subsequent amendment to the Act pertaining to RF radiation. Documentation shall be submitted to the City providing evidence that the cumulative field measurements of radiofrequency power densities for all antennas installed on the premises are below the Federal standards.
- (2) Except in the event of an emergency, routine maintenance and inspection of telecommunication facilities located on residentially zoned premises, including all of the system components, shall occur during normal business hours between 8:00 a.m. and 5:00 p.m. Monday through Friday.
- (3) Antenna facilities or associated equipment proposed for installation in the public right-of-way are subject to the following regulations:
 - (A) Antennas or associated equipment located in public right-of-way which is adjacent to a residentially zoned premises may be permitted with a Neighborhood Use Permit.
 - (B) Antennas and associated equipment located in the public right-of-way adjacent to non-residentially zoned premises are subject to review and approval by the City Manager.
 - (C) All equipment associated with antenna facilities shall be undergrounded, except for small services connection boxes or as permitted in Section 141.0405(b)(4).
 - (D) A construction plan must be submitted to and is subject to review and approval by the City Engineer in accordance with Chapter 6, Article 2.

(4) Antennas and associated equipment located in the public right-of-way may be placed above ground only if the equipment is integrated into the architecture or surrounding environment through architectural enhancement (enhancements that complement the scale, texture, color, and style), unique design solutions, enhanced landscape architecture, or complementary siting solutions to minimize visual or pedestrian impacts. These facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three.

(bc) Temporary facilities that provide services to public events and are limited to a one-time maximum duration of 90 calendar days are subject to the temporary use permit procedures in Chapter 12, Article 3, Division 4.

(ed) All telecommunication facilities that are required to obtain encroachment authorization to locate on city-owned dedicated or designated parkland or open space areas shall comply with the following:

(1) through (3) [No change.]

(de) Minor Telecommunication Facilities

Minor telecommunication facilities are permitted as a limited use or may be permitted with a Neighborhood Use Permit in the zones indicated with an "L" or an "N", respectively, in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) [No change.]

(2) In an effort to encourage collocation and to recognize that some telecommunication facilities are minimally visible, the following shall be considered minor telecommunication facilities:

(A) [No change.]

~~(B) Collocations on water storage tanks, electric transmission towers, and similarly sealed public utilities or facilities.~~

(EB) Panel-shaped antennas that are flush-mounted to an existing *building facade* on at least one edge, extend a maximum of 18 inches from the *building facade* at any edge, do not exceed the height of the building, and are designed to blend with the color and texture of the existing building.

(EC) Whip antennas if the number of antennas that are visible from the *public right-of-way* does not exceed six, if the antennas measure 4 inches or less in diameter, and if they have a mounting apparatus that is concealed from public view.

(3) Minor telecommunication facilities are not permitted in the following locations:

(A) On ~~properties~~ *premises* that are developed with residential uses in residential zones ~~a single dwelling unit~~;

(B) On vacant ~~lots~~ *premises* zoned for residential ~~single dwelling unit~~ development;

(C) On ~~properties~~ *premises* that have been designated as *historical resources*;

(D) On ~~properties~~ *premises* that have been designated or mapped as containing sensitive resources;

(E) On ~~properties~~ *premises* within the *MHPA*; or

(F) On ~~properties~~ *premises* that are leased for billboard use.

(4) and (5) [No change.]

(ef) Major Telecommunication Facilities

Major telecommunication facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three, except that major telecommunication facilities ~~in-on~~ dedicated or designated parkland and open space may be permitted with a Conditional Use Permit decided in accordance with Process Five, in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) Major telecommunication facilities are not permitted in the following locations:

(A) On ~~lots~~ premises containing designated *historical resources*;

(B) through (D) [No change.]

(2) and (3) [No change.]

(fg) Satellite Antennas

Satellite antennas are permitted as a limited use subject to Section 141.0405(fg)(2), and may be permitted with a Neighborhood Use Permit subject to Section 141.0405(fg)(3), or with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0405(fg)(4).

(1) [No change.]

(2) Limited Use Regulations. Satellite antennas that exceed 5 feet in diameter are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(A) [No change.]

(B) Satellite antennas are not permitted on ~~properties~~ premises that have been designated as *historical resources*.

(C) through (G) [No change.]

(H) Ground-, roof-, and pole-mounted satellite antennas shall be *screened* by fencing, buildings, or parapets that appear to be an integral part of the building, or by landscaping so that not more than 25 percent of the antenna height is visible from the *grade* level of adjacent ~~property~~ premises and adjacent *public rights-of-way*.

(3) Neighborhood Use Permit Regulations. Proposed satellite antennas that do not comply with Section 141.0405(b)(2) may be permitted with a Neighborhood Use Permit subject to the following regulations.

(A) [No change.]

(B) Satellite antennas are not permitted on properties premises that have been designated as *historical resources*.

(C) through (E) [No change.]

(F) The visual impacts of the antenna to adjacent properties premises and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscape or other *screening*.

(4) Conditional Use Permit Regulations. Except for proposed satellite antennas which are accessory uses in industrial zones, Proposed satellite antennas that exceed 10 feet in diameter may be permitted only with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations:

(A) [No change.]

(B) Satellite antennas are not permitted on properties premises or its appurtenances that have been designated as *historical resources*.

(C) The visual impacts of the antenna to adjacent properties premises and adjacent *public rights-of-way* shall be minimized by the positioning of the antenna on the site and the use of landscaping or other *screening*.

SEC. 142.0133 Slope Gradient

(a) through (c) [No change.]

~~(d) Cut slopes greater than 10 feet in height that exceed a gradient of 50 percent (2 horizontal feet to 1 vertical foot) but do not exceed a gradient of 66 percent (1 1/2 horizontal feet to 1 vertical foot) may be approved by the City Engineer if the slopes comply with one of the following:~~

~~(1) The underlying bedrock and soil supporting the slope, and the materials to be exposed on cut slopes, shall have strength characteristics sufficient to provide a stable slope with a factor of safety of not less than 1 1/2 for static loads and will not pose a danger to persons~~

~~or property. This determination shall be based on a *geotechnical report* containing the results of surface and subsurface *exploration* and analysis by a geotechnical engineer, or a qualified civil engineer and an engineering geologist, or~~

- ~~(2) The slope shall be revegetated in accordance with a plan prepared by a landscape architect or other professional authorized to prepare landscape plans by the State Business and Professions Code. The plan shall incorporate the recommendations of the *geotechnical report* and the agronomic soils test report.~~
- (e)(d) Where extraordinary conditions exist to the extent that compliance with the standards of this section would be infeasible, the City Engineer may authorize slopes steeper than those specified in Section 142.0133(b); and (c), and (d). A determination that such steeper slopes are warranted shall be based upon the required soils and geologic investigations *geotechnical report* that clearly demonstrates that the steeper slope will be stable and not endanger the public health, safety, and welfare. Such slopes shall be revegetated in accordance with a plan prepared by a landscape architect authorized to prepare landscape plans by the State Business and Profession Code. ~~Extraordinary conditions include the excavation of solid rock or *street* construction within a confined *public right-of-way* width.~~

SEC. 142.0134 Retaining Walls and Structurally Enhanced Fill

~~Reinforced earth or structurally enhanced *fill* slopes shall be considered *r* Retaining walls and shall comply with the height limits and construction material requirements in Chapter 14 Article 2, Division 3 (Fence Regulations).~~

~~SEC. 142.0135 Grading Within the 100 year Floodplain Special Flood Hazard Area~~

~~Grading within the 100-year floodplains Special Flood Hazard Area shall comply with Chapter 14, Article 2, Division 2 (Drainage Regulations) and Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).~~

~~SEC. 142.0230 Development Within the 100-year Floodplain Special Flood Hazard Area~~

~~All development within the 100-year floodplains a Special Flood Hazard Area shall comply with Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).~~

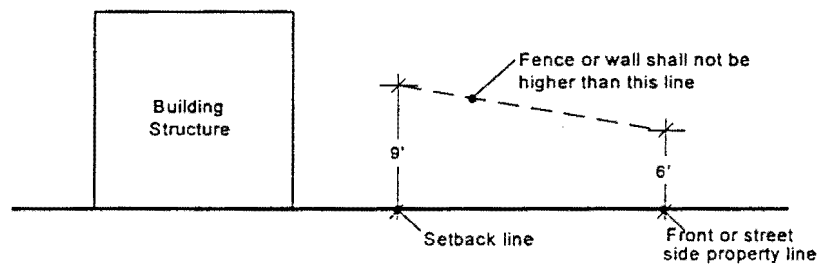
SEC. 142.0310 General Fence Regulations for All Zones

(a) and (b) [No change.]

(c) Fence Height in Required Front Yards and Required Street Side Yards

(1) and (2) [No change.]

Diagram 142-03C
Open Fence--Height Limit



(3) Combination (Open and Solid) Fences

(A) [No change.]

(B) The height of a combination fence may increase as the fence is placed farther from the front or street side property line. No portion of the fence shall exceed the height established by a line drawn beginning at a point 6 feet above grade at the property line and ending at a point 9 feet above grade at the setback line, as shown in Diagram 142-03D. Where a visibility area is required, the beginning point shall

be measured 6 feet above any point of intersection of the perimeter of the *visibility area* and the side or rear *property line*, as shown in Diagram 142-03DE.

Diagram 142-03D
Combination Fence--Height Limit with Visibility Area
Diagram 142-03DE
Combination Fence--Height Limit with Visibility Area
(No change to diagram)

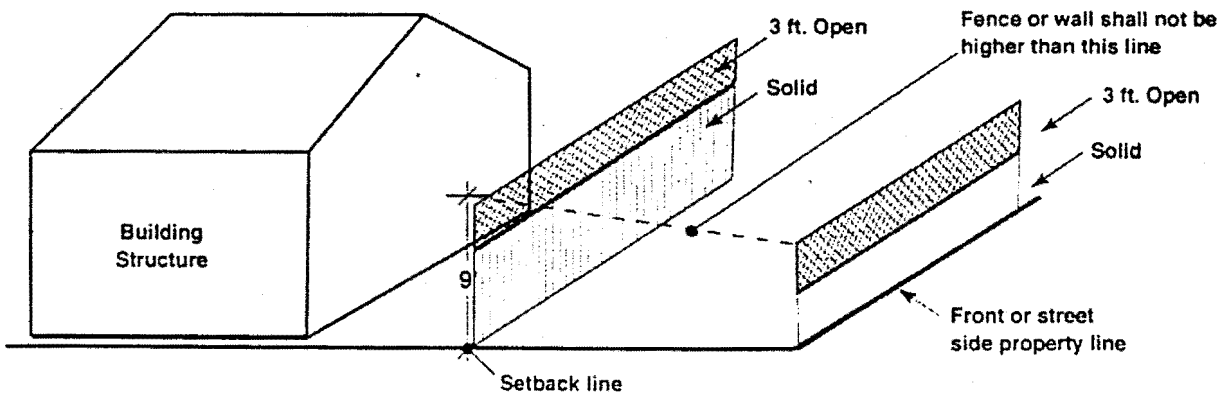
(C) Vertical elements such as columns or posts shall be provided at least every 15 feet on a combination *fence*. Each vertical element shall be at least 6 inches wide (unfinished dimension), measured along the face of the *fence* as shown in Diagram 142-03EF.

(D) If wire *fence* material is used for the open portion of the *fence*, a horizontal element shall be provided along the top of the wire *fence*. This element shall be at least 1-½ inches wide with a minimum reveal of 1-½ inches, as shown in Diagram 142-03EF.

Diagram 142-03EF
Combination Fence--Vertical and Horizontal Elements
(No change to diagram)

(4) *Fence Height Exception in Required Street Side Yards*

Solid fences located in the required *street side yard* of a *lot* with a rear *yard* that abuts the rear *yard* of another *lot*, as shown in Diagram 142-03FG, are permitted up to 6 feet



in height.

Diagram 142-03FG
Fence in Street Side Yard
(No change to diagram)

(d) and (e) [No change.]

(1) [No change.]

(2) [No change.]

(A) and (B) [No change.]

~~(C) Open and solid fences in commercial and industrial zones.~~

SEC. 142.0340 Retaining Wall Regulations in All Zones

(a) and (b) [No change.]

(c) *Retaining Wall Height in Required Front Yards and Required Street Side Yards*

(1) Two *retaining walls* with a maximum height of 3 feet each are permitted in the required front and *street side yard* if the two *retaining walls* are separated by a minimum horizontal distance equal to the height of the upper wall. See Diagram 142-03GH.

(2) [No change.]

(3) *Retaining walls* of 3 feet in height or greater shall have at least one horizontal or vertical offset for each 120 square feet of wall area. The horizontal or vertical offset shall be at least 12 inches wide with a minimum reveal of 4 inches. See Diagram 142-03B.

(d) [No change in sentence.]

(1) Two *retaining walls* with a maximum height of 6 feet each are permitted in the required side and rear *yard* if the two *retaining walls* are separated by a minimum horizontal distance equal to the height of the upper wall. See Diagram 142-03GH.

(2) [No change.]

Diagram 142-03GH
Retaining Wall Requirements
(No change to diagram)

(e) and (f) [No change.]

SEC. 142.0380 Fence and Retaining Wall Maintenance

- (a) Property owners shall maintain *fences* and *retaining walls* free from dilapidated or dangerous conditions.
- (b) Property owners shall maintain *fences* and *retaining walls* in a graffiti-free condition.
- (1) [No change.]
- (2) The following *fences* are permitted outside of required *yards* up to the maximum *structure height* specified in the zone:
- (A) and (B) [No change.]
- ~~(C) Open and solid fences in commercial and industrial zones.~~

SEC. 142.0510 General Parking Regulations

- (a) through (d) [No change.]
- (e) [No change.]
- (f) In RS zones, the required parking may be provided on a driveway or paved surface within the front or street side yard on premises where required parking was converted to habitable space prior to January 1, 1992; subject to the following requirements:
- (1) The area complies with the standards for required parking in Section 142.0560 utilizing a maximum of five feet of the undeveloped public right-of-way. In no

case shall the sidewalk be obstructed or encroached upon by a vehicle parked within the sidewalk area.

(2) The area is perpendicular to the *public right-of-way* and between the sidewalk adjacent to the *premises* and the *building setback*.

(3) No other on-site alternative placement options are available.

(4) The area complies with Section 142.0560(j).

~~(fg) [No change]~~

SEC. 142.0530 Nonresidential Uses -- Parking Ratios

(a) [No change in first paragraph.]

Table 142-05D

Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development

Zone	Parking Spaces Required per 1,000 Square Feet of Floor Area Unless Otherwise Noted (Floor Area Includes Gross Floor Area plus below Grade <i>Floor</i> Area and Excludes Floor Area Devoted to Parking)			
	Required Automobile Parking Spaces			Required Bicycle Parking Spaces ⁽²⁾
	Minimum Required Outside a <i>Transit Area</i>	Minimum Required Within a <i>Transit Area</i> ⁽¹⁾	Maximum Permitted	Minimum Required
Commercial Zones				
CR-1-1	5.0 ⁽³⁾	4.3	6.5	0.1
CR-1-2 CR-2-1				

Footnotes For Table 142-05D

⁴ ~~Coastal Overlay Zone. For area of applicability, see Chapter 13, Article 2, Division 4.~~

Table 142-05E
Parking Ratios for Eating and Drinking Establishments

Zone	Parking Spaces Required per 1,000 Square Feet of Eating and Drinking Establishment ⁽³⁾ Floor Area Unless Otherwise Noted (Floor Area Includes Gross Floor Area plus below Grade <i>Floor</i> Area and Excludes Floor Area Devoted to Parking)			
	Required Automobile Parking Spaces			Required Bicycle Parking Spaces ⁽²⁾
	Minimum Required Outside a <i>Transit Area</i>	Minimum Required Within a <i>Transit Area</i> ⁽¹⁾	Maximum Permitted	Minimum Required
CR-1-1	15.0	12.8	25.0	0.1
CR-1-2 CR-2-1				

Footnotes For Table 142-05E

⁵ ~~Beach impact area. For area of applicability, see Chapter 13, Article 2, Division 8 (Parking Impact Overlay Zone).~~

[No other changes to this section.]

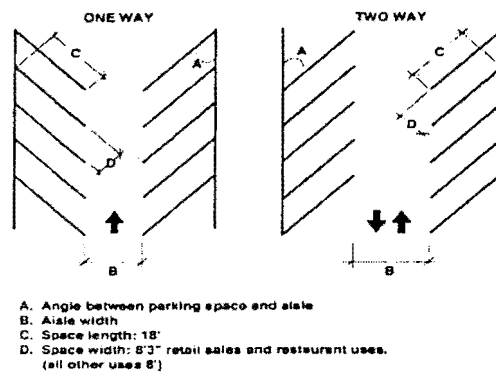
SEC. 142.0560 Development and Design Regulations for Parking Facilities

(a) and (b) [No change.]

(c) [No change in this paragraph.]

Table 142-05K [No change.]

Diagram 142-05B
Minimum Dimensions for Automobile Parking Spaces and Aisles



[Delete previous Diagram 142-05B and insert the above.]

142.1210 General Sign Regulations

This section is divided into subsections for copy regulations, locational regulations, structural regulations, and *sign* maintenance regulations.

(a) Copy Regulations

(1) Permanent or changeable copy on *signs* shall contain on-premises or public interest messages only.

(A) and (B) [No change.]

(DC) Public interest messages for public or private non-profit or charitable organizations may ~~also~~ identify sponsors and supporters of the *signs* and notices as described in Section 142.1210(a)(1)(B), ~~above described *signs* and notices, and public or private~~

~~non-profit or charitable organizations or agencies.~~ A maximum of 15 percent of the total area of a *sign* containing a public interest message shall include the name of the sponsors or supporters, description of the products, services or activities provided or engaged in by the sponsors or supporters, and recognized trademarks, logotypes or symbols customarily associated with the sponsors or supporters.

(E) The following *signs* are also public interest message *signs* but are regulated as secondary *signs*:

- (i) *Public utility signs* that are required by law;
- (ii) *Directional signs*; and
- (iii) Holiday decorations.

[No change to remainder of section.]

~~SEC. 143.0110 When Environmentally Sensitive Lands Apply~~

[No change in first sentence.]

(a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire *premises*, unless otherwise provided in this division:

- (1) through (4) [No change.]
- (5) ~~*+100-year floodplains Special Flood Hazard Areas.*~~

(b) and (c) [No change.]

~~SEC. 143.0111 Limited Exception from Environmentally Sensitive Lands Regulations~~

[No change in first sentence.]

(a) through (d) [No change.]

(e) ~~*Development* in the OF zone or within any *+100-year floodplains Special Flood Hazard Area*~~

~~(formerly the FW, FC, and FPF zones) in the Mission Valley Community Plan area, is subject only~~

**BENEDETTO
ADVOCACY
& COMMUNICATIONS**

THIS MATERIAL RECEIVED DURING
PUBLIC HEARING. COMMISSIONERS
MAY NOT HAVE BEEN ABLE TO REVIEW
AND CONSIDER IT THOROUGHLY.

August 17, 2000

Mr. Mark Steele, Chair
City of San Diego Planning Commission
202 "C" Street, 5th Floor
San Diego, CA 92101

RE: Proposed Code Update – Telecommunication Facilities

Dear Chairman Steele and Members of the Planning Commission:

The telecommunications industry has been meeting both independently and with the City to help provide input on the proposed code revisions pertaining to our facilities within the City of San Diego. The industry committee includes representatives from AT&T Wireless, AT&T Fixed Wireless, Teligent, Nextel Communications, Pacific Bell Wireless, Verizon Wireless, Sprint PCS, Lucent Technologies, Metrocom and GTE Wireless, among others.

The industry has reviewed Planning Commission Report No. P-00-142 and the Addendum dated August 17, 2000. In general, the industry supports the efforts of the City to help update the code as it relates to telecommunication facilities. We concur with statements in the staff report discussing applicable law, from the 1996 Telecommunications Act (Act). The Act provides guidance to local jurisdictions in these matters and stand as a framework for the establishment of proposed ordinances. The provisions of any ordinance should be carefully considered against the Act. The industry encourages the City to seek guidance from the Federal Communications Commission (FCC) on any proposed change of regulation specific to the telecommunications industry.

A number of the suggested changes appear to identify telecommunications providers as a different sort of utility company. The industry is curious to know how other utilities are treated when it comes to public rights-of-way, limitations to access for certain periods of time and the requirement for studies determining emissions from a given facility.

In terms of the specifics of the proposed updates to the City's Land Development Code, the industry committee would offer the following comments.

1. Section b.(1): The industry is not opposed to providing a copy of an RF power density report with each application. However, the industry felt the implication that the city could approve or revoke a permit based on this

SD LCPA #7-2000 DeMinimis

information exceeds the city's authority within the context of the Telecommunications Act of 1996 and the city's ability and expertise to review these documents. We suggest that the City Attorney review this section and seek guidance from the FCC on regulating based upon RF emissions.

Suggestion Modification: We respectfully request that this section be modified by eliminating the last two sentences. The industry would still be required to provide documentation that each site complies with FCC standards.

2. Section b. (2): The industry is concerned about the broad language contained within the proposed change. It may be preferable in some residential areas to have access limited to business hours. It is untenable to require a provider to take their services off-line during peak periods of usage. The industry, in looking at the City code, is uncertain of other industries that are similarly regulated. Like other businesses and utilities, the industry already complies with city noise standards for operating in any particular zone. It must be emphasized that performing maintenance during peak use hours is not an option for a wireless carrier.

Suggested Modification: The industry recommends that this particular limitation be isolated to residential zones and that this requirement be applied on a case-by-case basis to allow some flexibility for access in areas where it is limited by contract.

3. Section b.(3): The industry felt that the establishment of equipment in city rights-of-way of is an encroachment permit issue and is, therefore, not in need of address in this proposed ordinance. The industry realizes that pedestrian access is an issue, but believes that current regulatory devices deal with this issue. In fact, the change in this section, would provide another discriminatory device to regulate one industry over other utility providers. The change would also limit flexibility in the placement and design of such facilities to limit inconvenience in the public right-of-way.

Suggested Modification: The industry suggests that language be added to allow for a case-by-case review of these facilities. Further, the section, needs to include language stating "...to the maximum extent practicable." This would allow for creativity in the placement of this equipment.

4. Section (2)(B): The industry is confused why this section was stricken from the ordinance. In terms of meeting the aesthetic desires of many communities and jurisdictions, water tanks, transmission towers, etc. are appropriate co-location opportunities for telecommunication equipment. It is our understanding that water tanks, transmission towers, etc. are still considered "minor" in the new draft, except they are now Process 2 minor applications. This designation is covered by the "N" designator, as explained in the definition of minor facilities at the top of the page. This would provide the type of public notification staff

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suggests is desired. Eliminating it from this section simply makes it more difficult to utilize these facilities and limits the opportunity to a jurisdiction for lease revenue from these facilities. It also, further constrains the creativity in constructing low impact, low visibility sites. In essence, this language is going in the other direction from what the intent of the code to encourage co-location on existing facilities.

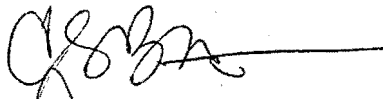
Suggested Modification: The industry believes the stricken language should be added back into this section.

The industry understands that there is an addendum with some additional changes to the code. The industry supports item #4 as amended. Item #5 is supportable with the aforementioned change allowing a case-by-case review for certain sites in residential zones. Item #6 is supportable only if there is additional flexibility added as described above.

The industry remains concerned, however, that some of these changes, particularly those in residential zones, will lead to a conflict with the language and the intent of the 1996 Telecommunications Act. In fact, the industry firmly believes that rather than establishing prohibitive and potentially punitive language in the Land Development Code, the City should continue to incentivize low impact, low visibility facilities by providing an expedited process for review and permitting.

Thank you for your attention to this matter. Please call me anytime at (619) 236-8397 to further discuss this matter.

Sincerely,



Craig Benedetto
Representing AT&T Wireless
& Industry Review Committee

CC: LU&H Chairman Byron Wear
San Diego City Council
Mr. Stephen Haase, Manager, Planning & Development Review
Mr. Kirk Mather, LU&H Committee

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