

**CALIFORNIA COASTAL COMMISSION**

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December 26, 2006

**TH 6C**

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, SAN DIEGO COAST DEPUTY DIRECTOR  
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ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO OFFICE**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR  
AMENDMENT NO. 3-05B (Brush Management Regulations) for Commission  
Meeting of January 10-12, 2007**

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**SYNOPSIS**

The subject LCP implementation plan amendment was submitted and filed as complete on December 1, 2005. A one-year time extension of the 60-day time limit for Commission action was granted on January 12, 2006. As such, the last date for Commission action on this item is January 30, 2007.

This report addresses one of two parts of the entire LCP amendment submittal. The other part was the Jewish Academy rezoning (San Diego LCP Amendment No. 3-05A), which was certified by the Commission on December 14, 2005.

**SUMMARY OF AMENDMENT REQUEST**

As a result of extensive wildfires during drought years, and especially the San Diego County firestorms of late 2003, the City proposes revisions to its brush management regulations, in an effort to provide greater fire safety for both existing and new development throughout the City. In the certified Landscape Regulations, brush management is currently required for all developed properties adjacent to native and naturalized vegetation. The newly proposed regulations do not modify the types of land where brush management is required, but do modify how and where fuel modification occurs.

The primary proposed change to the regulations will be to expand the total required brush management area to 100 feet in width, including 35 feet of Zone One, the area closest to habitable structures, and 65 feet of Zone Two, the area between Zone One and undisturbed lands. Current regulations require a variety of brush management zone widths (ranging between 20-35 ft. for Zone One and 20-50 ft. for Zone Two), depending on the location of the property relative to Interstate 805 and El Camino Real, the perceived level of fire hazard, and the topography and vegetative composition of the

subject site and adjacent lands. The proposed changes will result in a consistent width for Zones One and Two regardless of property location or the other cited factors.

A second significant proposed change in the brush management regulations is in the method of brush management, particularly in Zone Two. Currently, the ordinance requires cutting and clearing of vegetation within brush management Zone Two; the proposed amendment would change the fuel reduction methods for Zone Two to consist of reducing the height of half the existing vegetation over 24 inches in height to 6 inches in height, and thinning and pruning the remaining vegetation. Although the area affected will be greater due to the increased width of Zone Two, the practice of wholesale clearing of vegetation will be eliminated. All root systems are to remain undisturbed under the proposed methodology, such that the potential for soil erosion is reduced, especially where Zone Two brush management occurs on steep slopes. Other proposed modifications include, but are not limited to, fencing requirements for use of goats in brush management; discussion of appropriate vegetation and irrigation in brush management zones; timing restrictions on brush management activities to protect biological resources; and clarification of exemptions from some City permits for various brush management activities.

Specifically, the proposed amendments to the certified LCP will add to, or modify, provisions in the Landscape, Environmentally Sensitive Lands, and Electrically Charged and Sharp-Pointed Fence Regulations of the certified Land Development Code (LDC). The adopted City Council resolutions and ordinances also include changes to delete outdated and duplicative language in portions of the municipal code, and add language addressing the use of goats for brush management. Since these modifications are to municipal code sections that are not part of the certified LCP, they are not specifically addressed herein.

### **SUMMARY OF STAFF RECOMMENDATION**

There is a recognized need for the City to effectively address fire safety for its residents, particularly those located in highly urbanized areas and along the urban/wildland interface. Implementation of an effective brush management program can avoid the need for more extensive vegetation removal in an emergency situation and the potential devastation of a wildfire. The existing regulations do not meet the current requirements of the City's Fire Marshal, particularly with respect to brush management zone width. The proposed amendments would bring the brush management requirements into conformity with the Fire Marshal's direction.

However, as proposed, the modifications to the Landscape, Electrically-Charged Fence and Environmentally Sensitive Lands Regulations would result in increased adverse impacts to sensitive species and public open space resources by, in many cases, expanding Zone Two brush management into areas consisting of native and naturalized vegetation and the City's Multiple Habitat Planning Area (MHPA) which is designated open space habitat preserve. In addition, implementation of the proposed regulations, particularly with respect to existing habitable structures and redevelopment of existing legal lots on the urban/wildland interface where setback potential is limited, would

require fuel modification off-site and/or within environmentally sensitive habitat area (ESHA) protected by the Coastal Act.

Therefore, staff recommends denial of the LCP amendment as submitted, then approval with suggested modifications that accommodate the required brush management measures as necessary maintenance to protect existing structures, but that also specifically address the need for a coastal development permit when such measures impact ESHA; require mitigation for unavoidable impacts to ESHA from brush management within public lands and the designated MHPA; require alternative measures including building materials and design to be utilized to avoid the extent of vegetation removal and habitat disruption in the required 100 foot brush management zones; and, establish a distinction between brush management requirements for existing habitable structures and development on existing legal lots, and new development, including subdivision of land. Since ESHA is not currently a defined term in the City of San Diego certified LCP, a definition has been added for purposes of implementation of the brush management regulations.

In its review of the certified Land Development Code, the Commission recognized the MHPA as lands that have been designated and set aside for purposes of protecting the habitat value within the remaining large expanses of undisturbed area in the City's coastal overlay zone. Although some resources rising to the level of ESHA may exist outside the MHPA within the large undeveloped areas of the City, the vast majority of ESHA of significance is contained within the MHPA. Most urban canyons are not included in the MHPA preserve lands, and would not meet the Coastal Act definition of ESHA, due to their loss of function as either viable habitat or active wildlife corridors. Although these canyons may include formal open space and some sensitive biological resources as defined in the City's LDC, implementing Zone Two brush management within those isolated, urban canyons would not constitute a significant disruption of habitat values nor impact ESHA. This finding is consistent with the Commission's action approving the LDC in 1998. For this reason, most brush management activities associated with existing structures in the heavily urbanized portion of San Diego would not require a coastal development permit because they would not result in removal of major vegetation.

Regarding the use of goats, the regulations governing the use of goats for brush management are in sections of the municipal code that are not part of the certified LCP. Thus, such activity would not be regulated through the coastal development permit process, and the regulations could be changed in the future without review by the Coastal Commission. Moreover, a serious concern has been raised by the Commission staff ecologist, echoed in many EIR comments that, even if the regulations were part of the LCP, they do not appear adequate to protect sensitive biological resources from degradation due to indiscriminate browsing.

To aid in understanding the proposed regulation language, acronyms used throughout the City's proposed modifications include MHPA, which is the Multiple Habitat Planning Area and MSCP which is the Multiple Species Conservation Program. These terms both

refer to the City's resource management program developed in response to the State's Natural Communities Conservation Plan legislation.

The appropriate resolutions and motions begin on page 6. The suggested modifications begin on page 7. The findings for denial of the Implementation Plan Amendment as submitted begin on page 9. The findings for approval of the plan, if modified, begin on page 24.

## **BACKGROUND**

The City's first Implementation Program (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) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. The City has been reviewing this plan on a quarterly basis, and has made a number of adjustments to facilitate implementation; most of these required Commission review and certification through the LCP amendment process. Additional adjustments will continue to be made in the future. The City's IP includes Chapters 11 through 14 (identified as the Land Development Code or LDC) of the municipal code and associated guidelines.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego Amendment No. 3-05B (Brush Management Regulations) may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

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## **PART I. OVERVIEW**

### **A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996.

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 has been in effect within the City's coastal zone since January 1, 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**

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

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

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

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment No. 3-05B for the City of San Diego, as submitted.*

**STAFF RECOMMENDATION OF REJECTION:**

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

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

The Commission hereby denies certification of the Implementation Program Amendment No. 3-05B submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the various certified land use plans. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. 3-05B for the City of San Diego if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION:**

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

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

The Commission hereby certifies the Implementation Program Amendment No. 3-05B for the City of San Diego if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carryout the various certified land use plans. Certification of the Implementation Program Amendment if modified as suggested

complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

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

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

#### **1. The following new language shall be added to Section 142.0412:**

##### **(m) Coastal Overlay Zone Regulations**

- (1) Within the Coastal Overlay Zone, the following ordinance provisions shall be in addition to those identified in Section 142.0412, subsections (a) through (l). Where any conflicts exist between the following provisions of subsection (m) and the provisions of subsections (a) through (l) ) or other provisions of the Land Development Code or Land Development Manual, the following provisions of subsection (m) shall be controlling.**
- (2) Zone One or Zone Two brush management activity in environmentally sensitive habitat area within public open space or designated MHPA shall be considered an adverse environmental impact requiring mitigation. For purposes of subsection (m), environmentally sensitive habitat area shall include southern foredunes, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species.**
- (3) The required 100-foot brush management area (Zones One and Two combined) shall be measured only from a habitable structure, or from a non-fire-rated accessory structure in existence prior to (INSERT date of effective certification of SD LCP Amendment No. 3-05B) if retention of the non-fire-rated accessory structure does not require impacts for fire protection to environmentally sensitive habitat area within public open space or designated MHPA. Non-fire-rated accessory structures shall be removed or relocated to avoid impacts to such lands. All new accessory (i.e., non-habitable) structures on**

properties subject to brush management regulations shall be fire-rated and only allowed within Zone One.

(4) Protection of Existing Habitable Structures on Existing Legal Lots

A Coastal Development Permit is required for brush management activity that impacts environmentally sensitive habitat area within public open space or designated MHPA. Mitigation for such impacts shall be required at a 1:1 ratio consisting of new creation or significant restoration of like habitat within existing designated MHPA or newly designated MHPA within the coastal overlay zone.

(5) Development of Vacant Legal Lots, or Redevelopment of Existing Legal Lots

Brush management requirements shall be reviewed as part of the coastal development requiring a coastal development permit. Brush management shall be addressed in a site-specific brush management plan acceptable to the Fire Marshal that avoids significant disruption of habitat values to the maximum extent possible and is the minimum necessary to meet fuel load reduction requirements. Impacts to environmentally sensitive habitat area within public open space or designated MHPA shall be permitted only if the lot size or configuration does not otherwise accommodate reasonable residential use and only after all creative site and/or structural design features that would eliminate or minimize impacts from Zone Two brush management have been incorporated. Mitigation for unavoidable impacts shall be required at a 1:1 ratio consisting of new creation or significant restoration of like habitat within existing designated MHPA or newly designated MHPA within the coastal overlay zone.

(6) New Subdivision of Land.

Brush management requirements shall be reviewed as part of the subdivision of land requiring a coastal development permit. Brush management shall be addressed in a site-specific brush management plan acceptable to the Fire Marshal. Impacts to environmentally sensitive habitat area shall not be permitted for Zone One or Zone Two brush management. All creative site and/or structural design features shall be incorporated into the approved subdivision design to avoid or minimize impacts to any existing undisturbed native vegetation from allowable brush management requirements. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with existing habitat, and maintenance of at least 50% of the existing ground cover shall be implemented, when possible, to avoid significant disruption of existing undisturbed native



**vegetation. New development shall be setback a minimum 100 foot distance from existing environmentally sensitive habitat area regardless of the extent of vegetation removal necessary to meet Zone Two requirements when alternative compliance measures such as structural materials and design are considered.**

**(7) Brush management activities shall not be performed by goats or other animals within the Coastal Overlay Zone.**

**(8) As an alternative to issuing coastal development permits to individual property owners to implement brush management pursuant to these regulations, the City may pursue the option of a general coastal development permit to address all potential brush management on environmentally sensitive habitat area (ESHA) within public open space and the Multiple-Habitat Planning Area (MHPA) within the coastal overlay zone. Such a permit may delegate implementation of brush management to individual property owners, and must be in compliance with the requirements of this Section. The City and general permit shall establish the mechanism for requiring a comprehensive mitigation program, in consultation with the California Department of Fish and Game, the U.S. Fish and Wildlife Service and the California Coastal Commission, to address the impacts to environmentally sensitive habitat area (ESHA) within public open space and the Multiple-Habitat Planning Area (MHPA) on affected properties within the coastal overlay zone.**

**PART IV. FINDINGS FOR REJECTION OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT NO. 3-05B, AS SUBMITTED**

**A. AMENDMENT DESCRIPTION**

In general, the proposed LCP amendment is intended to increase the defensible area between existing/future structures and areas of native or naturalized vegetation to more effectively combat wildfires. Currently, the required brush management zones (Zones One and Two combined) range from 20 to 85 feet in width depending on the location and topography of the area; the proposed amendments would increase this total to 100 feet in all cases and make the requirement consistent citywide, as shown in the following table.

Criteria	Property	Location
	<u>Zone Widths</u> West of Interstate 805 and El Camino Real	East of Interstate 805 and El Camino Real
<u>Minimum Zone One Width (See Section 142.0412[d])</u>	20 35 ft.	30 ft.

<p><del>Additional Zone One Width (See Section 142.0412[e]) Required when development is adjacent to slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or adjacent to vegetation greater than 24 inches in height; or adjacent to the MHPA</del></p>	<p><del>5 ft.</del></p>	<p><del>5 ft.</del></p>
<p><del>Zone One Width Within the Coastal Overlay Zone for subdivisions containing steep hillsides with sensitive biological resources</del></p>	<p><del>30 ft. Min</del></p>	<p></p>
<p><del>Minimum Zone Two Width (See Section 142.0412[f])</del></p>	<p><del>20 65 ft.</del></p>	<p><del>40 ft.</del></p>
<p><del>Additional Zone Two Width Required when Zone Two is on slopes greater than 4:1 gradient that are 50 feet or greater in vertical height; or the vegetation in Zone Two is greater than 48 inches in height. This additional width is not required for Zone Two located within the MHPA</del></p>	<p><del>10 ft.</del></p>	<p><del>10 ft.</del></p>

The specific LCP amendments proposed address existing language within the Fences, Landscape, and Environmentally Sensitive Lands (ESL) Regulations. The proposed amendments to the Landscape Regulations all occur within Section 142.0412 of the Land Development Code (LDC). They identify the new widths for the brush management zones (35 feet for Zone One and 65 feet for Zone Two), what types of vegetation are permitted within the zones, how the zones are to be managed, and who is responsible for brush management implementation. Within that section, the term “flammable” vegetation is proposed to be replaced with the term “native or naturalized” vegetation and the term “cut and cleared” is proposed to be replaced with the term “reduced in height.”

Currently, Zone One is required to be permanently irrigated and include primarily low-growing, low-fuel, fire-resistive plants and hardscape improvements. No habitable structures or other combustible construction are permitted within Zone One, and trees must be located away from structures to a minimum of ten feet measured from the drip line. These Zone One requirements are not modified in the proposed amendments. Current Zone Two fuel modification consists of cutting and clearing 50% of all vegetation over 18 inches in height to 6 inches in height. As proposed, fuel modification within Zone Two would consist of reducing 50% of all vegetation over 24 inches in height to 6 inches in height, and pruning the remaining 50% of the vegetation to reduce the fuel load and remove dead and dying plant material. Proposed changes further require that non-native vegetation be reduced and pruned before native vegetation, to help offset impacts to habitat function.

Unfortunately, due to a lack of funding and staff, the current requirements have only been enforced when complaints are received, such that complete implementation of the current regulations has not occurred, and there is thus no way to gauge their effectiveness. Based on the experiences of recent fires, however, the Fire Marshal does not consider the current regulations to be adequate, even if they are fully enforced. Thus, as proposed, the combined Zones One and Two for all properties on the urban/wildland interface and adjacent to native and naturalized vegetation would expand to a total of 100 feet. Zone

One requirements would be the same as before, except that the area of Zone One would be increased from 30 feet (in the coastal overlay zone) to 35 feet City-wide. Zone Two would be increased from as little as 20 feet to 65 feet, with this width applied uniformly throughout the City.

The City recognizes that, in many instances, these new regulations will require fuel modification beyond the property boundaries of the habitable structure being protected. While this may occur on other private property, it is more likely that the adjacent lands will be public open space and parklands. It is also likely that these adjacent properties contain environmentally sensitive lands, and, in many cases, are within the Multiple Habitat Planning Area (MHPA). The only areas where this is expected to be a significant concern is along the outer perimeter of existing development within the City limits and within the larger canyon and open space areas within the urbanized portions of the City. These are the areas that are designated as MHPA lands where the undisturbed natural vegetation would rise to the level of Environmentally Sensitive Habitat Area (ESHA) as defined in the Coastal Act. Other parts of the developed City do not contain ESHA, as areas with native vegetation are small, isolated, surrounded by existing development, and highly disturbed by human activities. With respect to protecting existing urban development, the City estimates that impacts of the proposed amendments would affect approximately 715 additional acres of MHPA lands, with approximately 113.6 acres of that within the coastal overlay zone.

This total was calculated by multiplying the linear extent of the urban/wildland interface by the 65 feet of required Zone Two brush management, on the assumption that all of Zone Two would occur off-site of the properties being protected. Thus, the 113.6 coastal overlay zone acres includes the anticipated impacts associated with implementation of the brush management regulations for existing development, future development of the nine currently-vacant lots located on the urban/wildland interface, along with the potential impacts from redevelopment of existing, improved legal lots on the interface. The size of the vast majority of existing legal lots would not allow the full 100 feet of brush management area to occur within the legal lot, but the City's calculation of potential impacts assumes that the entire Zone One area will be contained within the existing legal lot. Thus, there will be approximately 113.6 acres of additional impacts to MHPA lands within the coastal overlay zone when such brush management activity occurs.

Separate from the proposed amendments to the Landscape and Environmentally Sensitive Lands Regulations, the City passed a resolution raising its goal of MHPA land acquisition by an additional 715 acres in an attempt to address the expected losses associated with protecting existing structures, as a response to concerns raised by the wildlife agencies (CA Department of Fish and Game and U.S. Fish and Wildlife Service). The additional acreage would be added to the MHPA over time, with specific vegetative communities replaced in proportion to that lost, and with coastal zone losses replaced in kind within the coastal zone. However, specific locations of the replacement habitat areas are not currently known, and the increased MHPA acreage is no more than a goal at this time. Therefore, this resolution does not actually mitigate for direct impacts of expanded brush management within the MHPA until acquisition of the 715 additional acres actually occurs.

Where existing structures and existing legal lots are concerned, because the total brush managed area would be widened, the new Landscape Regulations would increase off-site vegetation thinning and pruning in many cases, including in areas of environmentally sensitive lands and public open space, that may contain vegetative communities that would rise to the level of ESHA pursuant to the Coastal Act. To protect the California gnatcatcher, the proposed amendments include a prohibition on brush management activities within coastal sage scrub, maritime succulent scrub and coastal sage chaparral habitats between March 1<sup>st</sup> and August 15<sup>th</sup> (the species' breeding season), unless such activities can be found consistent with the Multiple Species Conservation Plan (MSCP) Subarea Plan. In addition, the proposed amendments would allow case-by-case modifications to the fire regulations by the Fire Chief if the required measures are found to be inadequate in specific circumstances. The only proposed amendment to the ESL Regulations, Section 143.0110, states that brush management activities in wetlands are not exempt from discretionary permit review.

Through the same Council actions, the City has also approved modifications to a number of other municipal code provisions, particularly addressing the use of goats for brush management. However, the only modification addressing use of goats to language included within the LCP is to Section 142.0360, addressing electrically charged fences. The amendment would allow use of such fences on a temporary basis in non-agricultural zones, in association with use of goats for brush management. A large section of brush management text is also being deleted from Chapter 4 of the Municipal Code, which is not part of the certified LCP, and is thus not addressed herein. This chapter includes duplicative language with that found in Chapter 14, as discussed above.

Moreover, alternatives identified in the EIR included a greater emphasis on use of special building design and materials to reduce the need for expanded brush management zones, better enforcement of the regulations already in place, and greater public education to minimize misinterpretation of the regulations. Special design standards are in place for properties adjacent to native vegetation, but these are considered as additional to the expanded brush management zones, not as a possible replacement for such. Neither of the other alternatives was considered viable by the City, although they could result in fewer or less severe impacts in some situations, and would thus be more consistent with the specific Land Use Plans (LUP)s identified below and the other LUPs that are part of the certified LCP.

## **B. SUMMARY FINDINGS FOR REJECTION**

The proposed zoning modifications do not conform with, nor are they adequate to carry out, the brush management, resource protection, and visual resource policies of several certified land use plans. Within the City of San Diego Local Coastal Program, all the certified Land Use Plan segments would be affected by the proposed brush management regulations except Pacific Beach, Mission Beach, Ocean Beach, Centre City, and Barrio Logan. The communities that contain the most undeveloped property at the urban/wildland interface include the communities of the North City LCP segment, such as Mira Mesa, Carmel Valley, and Torrey Pines, as well as La Jolla and the Tia Juana

River Valley. In general, these LUPs protect open space and native vegetation more comprehensively than do the MSCP provisions, which are restricted to certain geographic areas. The City's proposed ordinance language does not address replacement of lost MHPA lands, nor any specific mitigation for direct impacts. As stated above, although the City passed a separate resolution committing to replacement of lost MHPA lands over time, this is a goal, not a requirement, such that the incremental reduction in value of MHPA lands could occur for years before any additional lands are actually purchased and added to the MHPA.

Therefore, the proposed brush management regulations will result in significant additional impacts on public open space and MHPA lands. In many cases, this will also be an impact on ESHA. The City does not intend to require discretionary permits for brush management activities if done consistent with the proposed regulations regardless of impacts, and proposes no immediate mitigation for the expected habitat losses.

In addition, the City proposes to allow the use of goats to perform the actual brush management, however, said use is likely to be inconsistent with the proposed regulations that require modifying non-native vegetation first before native vegetation is modified. Moreover, none of the certified LUPs address any use of goats within the urbanized areas, and the regulations adopted by the City to control the use of goats are not part of the LCP. Thus, as currently proposed, the brush management activities are inconsistent with, and inadequate to carry out, the resource protection policies of several, if not most, of the City's certified LUPs.

### **C. SPECIFIC FINDINGS FOR REJECTION**

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

#### Landscape Regulations

a) Purpose and Intent of the Ordinance. The purpose of these regulations is to minimize the erosion of slopes and disturbed lands through revegetation; to conserve energy by the provision of shade trees over streets, sidewalks, parking areas, and other paving; to conserve water through low-water-using planting and irrigation design; to reduce the risk of fire through site design and the management of flammable vegetation; and to improve the appearance of the built environment by increasing the quality and quantity of landscaping visible from public rights-of-way, private streets, and adjacent properties, with the emphasis on landscaping as viewed from public rights-of-way.

b) Major Provisions of the Ordinance. The ordinance generally requires minimum amounts of landscaping based on various land uses. Among other things, the ordinance includes:

- A point system for private properties based on plant types and sizes
- Irrigation regulations
- Regulations for parking lot plantings

- Regulations for Public right-of-way plantings
- Brush management regulations
- Water conservation regulations

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The proposed brush management regulations have the potential to affect sensitive biological resources in many communities of the City, and, depending on the method of implementation, would be inconsistent with many certified LUP provisions protecting said resources. Specific examples will be cited later in this staff report.

#### Environmentally Sensitive Lands Regulations

a) Purpose and Intent of the Ordinance. The purpose of these regulations is to protect, preserve and, where damaged restore, the environmentally sensitive lands of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that development, including, but not limited to, coastal development in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas while minimizing the need for construction of flood control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat based level of protection which will result through implementation of the Multiple Habitat Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

b) Major Provisions of the Ordinance. The ordinance generally requires the protection and preservation of environmentally sensitive lands, which include sensitive biological resources (both wetlands and upland vegetative communities), steep hillsides, coastal beaches, sensitive coastal bluffs and flood hazard areas. Among other things, the ordinance includes:

- Lists of allowed and prohibited uses in each of these types of lands
- Appropriate setbacks and siting of development

- Requirements for mitigation where impacts are allowed
- Identification of required permits for various developments
- References to brush management requirements
- References to the Land Development Manual, especially the Biology and Steep Slope Guidelines
- References to the MHPA preserve and the species covered by the MSCP.
- Provisions for deviations under specific circumstances

The Biology Guidelines address sensitive biological resources and classify vegetation communities into four tiers, with Tier III further subdivided into parts A and B. The tiers are ranked in terms of sensitivity, based on rarity and ecological importance, with Tier I being most sensitive and Tier IV being least sensitive. Tier I (rare uplands) includes Southern Foredunes, Torrey Pines Forest, Coastal Bluff Scrub, Maritime Succulent Scrub, Maritime Chaparral, Native Grassland, and Oak Woodlands. Tier II (uncommon uplands) includes Coastal Sage Scrub (CSS) and CSS/Chaparral. Tier III A (common uplands) includes Mixed Chaparral and Chemise Chaparral, and Tier III B (also common uplands) consists of Non-native Grasslands. Finally, Tier IV (other uplands) includes Disturbed, Agriculture and Eucalyptus areas.

With respect to the MSCP covered species, these are part of an Incidental Take Authorization resulting from an agreement between the City of San Diego, the California Department of Fish and Game, and the U. S. Fish and Wildlife Service. There are a total of 85 covered species, with 46 plant species and 39 animal species. The covered plant species include 2 tree species, 3 types of grasses, and the remainder a combination of small plants and scrubs. The covered animal species include 3 mammals, 3 amphibians, 2 reptiles, 1 insect and 28 species of birds. In addition, the Biology Guidelines identify 14 narrow endemic plant species. These are not covered species in the MSCP, but are sensitive biological resources to be avoided in the MHPA and protected elsewhere.

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The only amendment proposed to this ordinance is identifying that brush management in wetlands is not exempt from site or neighborhood discretionary permit review. However, the proposed amendment, and existing ESL language, does not specifically identify when, or if, a coastal development permit (CDP) is required for brush management activities, and leaves that determination to interpretation of the Coastal Development Permit Regulations only. Thus, as proposed, it is clear any brush management activities to be performed in wetlands would be subject to discretionary action at the local level.

The City is not proposing any other changes to the ESL regulations or the Biology Guidelines at this time. This may result in some internal inconsistencies between the approved brush management regulations and provisions in other sections of the LCP implementation plan. However, new development in the coastal overlay zone must be reviewed for conformity with all applicable regulations including but not limited to the ESL regulations and the brush management requirements in the certified Landscape regulations. Therefore, if the brush management regulations include clarification as to which regulations are controlling in case of conflict, this should be sufficient to

adequately carry out the resource protection policies contained in the certified Land Use Plans.

### Fence Regulations

a) Purpose and Intent of the Ordinance. The purpose of these regulations is to maintain adequate visibility on private property and in *public rights-of-way*, to maintain the openness of front and street side yards, to protect the light and air to abutting properties, and to provide adequate *screening* by regulating the height, location, and design of *fences* and *retaining walls*.

b) Major Provisions of the Ordinance.

- Maximum heights for fences
- Exceptions to fence regulations
- Retaining wall regulations
- Building materials and maintenance regulations
- A prohibition on electric fences outside agricultural zones

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The only modification proposed to the certified fence regulations is to accommodate temporary electric fences for the control of goats being used for brush management in non-agricultural zones. A major problem with the current brush management requirements is that the City lacks the means (money and people) to enforce the regulations, such that brush management often only occurs when a specific complaint is lodged. Goats are viewed by the City as a less-expensive method of reducing vegetation than the use of manual labor, and the City thus hopes that allowing the use of goats might provide a financial incentive for property owners to proactively perform fuel modification. The City has drafted regulations governing the use of goats, specifying how many can be used per acre, and requiring 24-hour supervision, use of portable electric fencing to confine the goats to one area at a time, rotation of goats throughout a site to prevent overgrazing, and other regulations.

However, the above-referenced ordinance that actually regulates the use of goats for brush management is not proposed to be part of the LCP, and is thus subject to change without Coastal Commission review. Although that ordinance would not currently allow the use of goats in coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats during the gnatcatcher breeding season, goats could be used in these vegetative communities at other times of the year; moreover, the rules could be changed to allow grazing during the breeding season as well. Perhaps more significant are the practical concerns of how the regulations would be implemented and monitored. It could be difficult to manage goats in a manner that assures no overgrazing, and it could also be difficult to assure that goats graze the non-native vegetation in an area before they graze the native vegetation, as is required in the City's proposed LCP amendments. Therefore, a finding of consistency with the sensitive resource protection provisions of the certified LUPs is not possible.



The following are examples of various certified Land Use Plan (LUP) policies with which the proposed brush management regulations conflict, or which they do not fully carry out:

Carmel Valley Neighborhood 8 Precise Plan LCP Land Use Plan (a portion of the North City LUP)

Under **KEY DEVELOPMENT FACTORS**, Page 6 of the LUP states:

Brush Management Zone 2 activities are not permitted within environmentally sensitive areas. Zone 2 areas (maximum 65 feet in width and refers to the area of native or naturalized plant material that is thinned to reduce fuel load) may extend beyond the developable area when subject to an approved site specific brush management plan acceptable to the fire department and when it avoids significant disruption of habitat values, is the minimum necessary to meet fuel load reduction requirements and complies with the brush management provisions of the City's Multiple Species Conservation Program (MSCP). However, it is desirable to preserve or restore the integrity of the relatively small pockets of natural habitat that are interspersed with disturbed or developed areas within the designated open space system for this neighborhood. Projects shall incorporate creative site and/or structural design features that would avoid Brush Management Zone 2 extending into undisturbed natural habitat areas. Measures such as replacing cleared or thinned native vegetation with fire-resistive native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption.

On Page 48, within the design element, the ninth bullet under **B. DESIGN OBJECTIVES** states:

Preserve or enhance sensitive environmental features such as riparian areas, sandstone bluffs, and significant vegetation groupings.

On Page 49, within the design element, the third bullet under **C. DESIGN CONCEPT** states:

Hillsides Functions;  
Provide natural open space  
As visual relief  
As biological habitat

Mira Mesa Community Plan LCP Land Use Plan (a portion of the North City LUP)

The **Sensitive Resources and Open Space System** component of the certified LUP includes many policies addressing protection of the entire Mira Mesa open space system, and additional policies specifically addressing the major canyons, including those quoted below:

On Page 31, Policy 1.a., under **Open Space Preservation**, states:

Sensitive resource areas of community-wide and regional significance shall be preserved as open space.

On Page 31, Policy 4.c., under **Resource Management**, states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies, as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved as open space. *(The Resource Protection Ordinance [RPO] was part of the City's old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.)*

On Page 32, Policy 4.e., under **Resource Management**, states:

Sensitive habitat area that is degraded or disturbed by development activity or other human impacts (such as non-permitted grading, clearing or grubbing activity or four-wheel drive activity) shall be restored or enhanced with the appropriate native plant community. This is critically important when the disturbed area is adjacent to other biologically sensitive habitats. Manufactured slopes and graded areas adjacent to sensitive habitat shall be re-vegetated with the appropriate native plant community, as much as is feasible considering the City's brush management regulations.

On Page 33, Policy 4.i., under **Resource Management**, states:

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

On Page 34, Proposal 1., **Open Space Preservation**, states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon, Lopez Canyon, Carroll Canyon, Rattlesnake Canyon and Soledad Canyon, and the remaining vernal pool sites ... in a natural state as open space.

On Page 80, within the **Residential Land Use** component, the following site-specific development criteria applies to both the Crescent Heights and Sunset Pointe properties:

6. Brush management/fuel modification requirements shall be consistent with the following specific standards:

a. Structures shall be located such that Zone One brush management (minimum width of 35 feet) shall be entirely within the area designated for development and outside open space and environmentally sensitive lands. The width of Zone One should be increased when possible to reduce the width of Zone Two and impacts to native vegetation.

b. Zone Two brush management (selective clearing to maximum width of 65 feet) may be allowed in open space when subject to an approved site-specific brush management plan acceptable to the fire department that avoids significant disruption of habitat values to the maximum extent possible. However, Zone Two brush management within open space areas containing coastal sage scrub habitat, vernal pools and/or wetland buffers [for Crescent Heights] and coastal sage scrub and native grasslands [for Sunset Pointe] shall not be permitted. Measures such as replacing cleared or thinned native vegetation with fire-resistant native vegetation that does not require fuel modification and is compatible with the existing habitat, and maintenance of at least 50% of the existing ground cover of native vegetation shall be implemented, when possible, to avoid significant disruption.

Torrey Pines Community Plan LCP Land Use Plan (a portion of the North City LUP)

On Page 31, under **Resource Management and Open Space** Element, **SPECIFIC PROPOSAL #1** states:

New development or expansion of existing uses adjacent to the lagoon shall not encroach into or negatively impact this open space area.

On Page 33, under **Resource Management and Open Space** Element, part of Crest Canyon **SPECIFIC PROPOSAL #1** states:

The open space portion of the canyon shall be preserved. Limited public access shall be provided by defined trails under standards established for the preservation of biologically sensitive plants and wildlife.

On Page 34, under **Resource Management and Open Space** Element, **SPECIFIC PROPOSAL #3** states:

Future development adjacent to the Torrey Pines Reserve Extension area shall provide for adequate buffer areas. Development proposals shall provide adequate setbacks to avoid significant erosion, visual, or sediment impacts from construction. **Setbacks also shall be provided to prevent the necessity of fire breaks being constructed on reserve property.** (bold added)

On Page 37, under **Resource Management and Open Space** Element, the Brush Management provisions state, in part:

Because of the abundance of natural open space areas including canyons rich with native vegetation, special brush management consideration and enforcement should be provided within the Torrey Pines Planning Area.

... Removal or disturbance of vegetation to reduce wildfire potential can be ecologically disruptive.

... Ecologically beneficial methods to reduce wildfire potential in public parklands do exist. ... Alternatives which balance the needs for resource management with public safety should continue to be explored through the cooperative efforts of the citizens and responsible public agencies.

La Jolla Community Plan and LCP Land Use Plan

On Page 39, under **Natural Resources and Open Space System**, the last three **GOALS** state:

- Preserve all designated open space and habitat linkages within La Jolla such as the slopes of Mount Soledad and the sensitive ravines of Pottery Canyon.
- Protect the environmentally sensitive resources of La Jolla's open areas including its coastal bluffs, sensitive steep hillside slopes, canyons, native plant life and wildlife habitat linkages.
- Conserve the City of San Diego's Multi-Habitat Planning Area.

On Page 49, under **Natural Resources and Open Space System, POLICIES**, Item 1.a. states:

The City should ensure, to the fullest extent possible, that sensitive resources such as coastal sage scrub and mixed chaparral that are located in designated, as well as dedicated, open space areas and open space easements will not be removed or disturbed.

On Page 55, under **Natural Resources and Open Space System, PLAN RECOMMENDATIONS**, Item 1.d. states:

Implement the City of San Diego's MSCP Subarea Plan which ensures a system of viable habitat linkages between the existing open space areas to the canyons and hillsides throughout La Jolla's open space system.

On Page 64, under **Natural Resources and Open Space System, PLAN RECOMMENDATIONS**, Item 5.u. states:

For any development requiring a brush management plan, require the brush management plan used to control slope erosion to be performed on private property only, not on City-owned land, in accordance with the landscape regulations and standards.

These cited policies from the certified North City and La Jolla LCP Land Use Plans are intended as examples only. The City's other certified LCP land use plans contain similar language protecting natural resource areas from disturbance and preventing the disruption of habitat values. The City's proposed brush management revisions will extend the width of the required brush management zones. In many cases, especially when applied to developed properties, these changes will increase brush management encroachments into adjacent environmentally sensitive habitat area within public open space or designated MHPA lands. Even Zone Two brush management, which calls for significantly reducing the height of roughly half the vegetation within the zone, can adversely affect the habitat function of the remaining vegetation and the area as a whole. Thus, performing Zone Two brush management in environmentally sensitive habitat area is inconsistent with the resource protection policies of the City's certified LUPs.

In most cases, impacts to ESHA are not consistent with Section 30240 of the Coastal Act and the variety of habitat and open space protection policies contained in the certified LCP Land Use Plans. However, brush management to protect existing structures from significant fire hazard qualifies as maintenance activity within the meaning of Coastal Act Section 30610(d), which states:

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

For existing developed sites, brush management is one of many activities required to maintain the existing structures in a habitable condition. Maintenance activities are generally exempt from coastal development permit requirements, but Section 13252(a)(3) of the Commission's regulations provides that maintenance activities that occur in ESHA are an extraordinary method of maintenance that requires a permit. Permit conditions may be imposed to limit the adverse impacts associated with maintenance activities located in ESHA, but generally may not entirely prohibit maintenance activities for existing development. As explained below, the LCP amendment as submitted does not require a permit for brush management in ESHA and does not minimize the adverse environmental effects caused by brush management activities in ESHA to the extent feasible.

Several years ago, in response to significant fragmentation of habitat and accelerated loss of species, the state legislature adopted a law to address conservation in a regional manner, instead of property by property. The objectives of the southern California Natural Communities Conservation Program (NCCP) include identification and

protection of habitat in sufficient amounts and distributions to enable long-term conservation of the coastal sage community and the California gnatcatcher, as well as many other sensitive habitat types and animal species. Generally, the purpose of the Habitat Conservation Plan (HCP) and NCCP processes is to preserve natural habitat by identifying and implementing an interlinked natural communities preserve system. Through these processes, the wildlife agencies are pursuing a long-range approach to habitat management and preserve creation over the more traditional mitigation approach to habitat impacts. Although plans have been prepared for areas as small as a single lot, the Multiple Species Conservation Program (MSCP) and its subarea plans are intended to function at the citywide or regional level, instead of focusing on impacts to individual properties. For the City of San Diego, the actual preserve lands are referred to as the Multiple Habitat Planning Area (MHPA).

Under the certified ESL regulations, any loss of MHPA lands must be mitigated by expanding the MHPA an equal or greater amount elsewhere. In light of the proposed expansion of brush management zones, the wildlife agencies (primarily U.S. Fish and Wildlife Service [Service] and California Department of Fish and Game [DFG]) have now requested the City provide additional MHPA lands to compensate for the anticipated additional resource impacts (i.e., overall loss of habitat value).

To calculate this compensation, the City has estimated the amount of new impacts associated with applying the proposed brush management regulations to existing development based on the extent of its urban/wildlands interface. The City has calculated the expected impacts by types of vegetation/habitat, and also calculated the amount of these same impacts within the coastal zone separately. Of a total of 715 acres of additional resource impacts, 113.6 acres will be located within the coastal zone. The City adopted a resolution, separate from the proposed LCP amendment, to add an additional 715 acres to the MHPA's long-term acquisition goals. The resolution does not specify that 113.6 acres of new MHPA lands would be added to the coastal zone portion of the MHPA. However, City staff has indicated that is how the resolution would be interpreted, counting the specific amounts of the various types of coastal zone vegetation impacted, such that in-kind compensation will ultimately be provided. It is not currently known where these additional MHPA lands will be located or when they will be acquired.

The Commission finds that a number of significant issues are raised with this approach. First and foremost, the City is not proposing any direct mitigation for habitat losses due to the expanded brush management zones. The resolution is a commitment to add additional acreage to the MHPA in the future as part of the City's overall acquisition goal; this will not necessarily happen when the habitat impacts occur. Most of the MHPA lands are outside the coastal zone, extending to the east into the more rural areas of the City of San Diego. Since the City's program allows mitigation to occur anywhere within or adjacent to the MHPA, there is sometimes a significant distance between the MHPA loss and the MHPA replacement. When a loss of biological resources occurs within the coastal zone, it is the Coastal Commission's general practice to require mitigation within the coastal zone to achieve no net loss of habitat value in the coastal zone. Even if the City is able to eventually add 715 more acres to the MHPA consistent

with its stated goal, the resolution does not guarantee that replacement of coastal zone resources will occur within the coastal zone. However, the overriding concern is that mitigation will only occur sometime in the future, whereas the impacts to existing ESHA will occur right away.

An additional, separate issue is raised by the City's proposed LCP amendment. The City's LCP includes not only portions of the Land Development Code (LDC), but also a series of guidelines that explain the LDC ordinance requirements and offer examples of appropriate application of the ordinance. The City has not proposed revisions to these guidelines, and, thus, certification of the proposed amendments to the Landscaping and Environmentally Sensitive Lands Regulations may create conflicts with language in the Biology and Steep Hillside Guidelines. In the past, these documents had referred to Zone Two brush management, which was never wider than 20 feet in the coastal zone, as being "impact neutral" (i.e., having neither a positive nor negative effect on biological resources). As currently proposed, Zone Two is at least 65 feet and could be 100 feet or more in width, particularly when required to protect existing development, thus affecting a significantly greater area than previously. Moreover, since the Commission certified the guidelines in 1999, experience has demonstrated that even minimal reductions in vegetative cover can have adverse impacts on habitat value and function. The wildlife agencies, which had initially accepted the "impact neutral" language for Zone Two, also recognize that there are indeed adverse impacts from Zone Two, and are now requiring additional MHPA lands to compensate.

Another concern with the City's proposal is its use of the word "structure." When applying brush management regulations, only habitable structures should be considered for such protection. Although the proposed ordinance language specifies "habitable" structures occasionally, it often just says "structure." Since the City's definition of the word "structure" includes sheds, fences, patios, etc., potential encroachments into public open space areas could be significantly increased over what would occur if the ordinance language limited protection to only habitable structures. It is not the City's stated intent to promote brush management activities for non-habitable structures, except where such existing accessory structures are non fire-rated and could act as a fire ladder to the inhabited main structure. However, the proposed language could easily be interpreted by individual homeowners to allow, or even require, such protection.

Another issue with the LCP amendment as submitted is that it does not demonstrate a relationship between required brush management within environmentally sensitive lands and the use of building materials and techniques that could reduce the need for some, or all, resource disturbance. That is, there is no cross-reference to the building code regulations that address structural requirements for fire safety, and an ability to reduce the extent of disturbance to native vegetation required in Zone Two to adequately protect existing structures and new structures on legal lots that apply these structural techniques. The landscaping ordinance advises that the Fire Chief can modify requirements under certain conditions, but the actual building material and technique requirements are not part of the LCP. There is nothing in the LCP, either as it exists or with the proposed amendments, that ties in to the other ordinance, or explains how the two can work together to reduce impacts on sensitive resources. Thus, it is not clear in the LCP that

such provisions are available, and that they should be implemented not only in all new development, but on existing structures, too, before any modification of environmentally sensitive habitat area is allowed. This failure is inconsistent with the City's certified LUPs which contain multiple policies requiring protection of existing sensitive resources.

In summary, there are a number of instances where the newly proposed brush management regulations fail to support the certified LUPs. Some of these failures are more potentially damaging within the coastal zone than are others. Most significant to the Commission are the scope of potential impacts to environmentally sensitive habitat area particularly within public open space or designated MHPA lands, and a lack of any real and immediate mitigation for such habitat losses. This concern is heightened by the City's intent to exempt brush management activities that are consistent with the proposed ordinance from any discretionary review process, regardless of what habitat impacts will result. These issues point out the proposed LCP amendment's inconsistency with the cited LUP policies and its associated inability to adequately carry out those policies. For these reasons, the Commission finds it must deny the proposed LCP amendment, as submitted.

**PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO  
IMPLEMENTATION PLAN AMENDMENT NO. 3-05B, IF MODIFIED**

The Commission recognizes that reduction of fuel loads on existing developed land in highly urbanized areas such as the City of San Diego is necessary to protect public health and safety. The Commission further acknowledges that the proposed brush management methods of thinning and pruning vegetation are more protective of sensitive resources than the methods allowed by the currently-certified brush management regulations of cutting and clearing. This recognized benefit, however, is offset by the fact that a significantly larger area will be affected overall to provide a 100 foot distance for proposed brush management Zones One and Two combined. In addition, although less impactful, the proposed thinning and pruning is still a significant impact to the habitat value within undisturbed environmentally sensitive habitat areas (ESHA). Within the City of San Diego, the primary concern related to implementation of the proposed brush management regulations relates to impacts on ESHA within public open space and the Multiple-Habitat Planning Area (MHPA). In its review of the certified Land Development Code, the Commission recognized the MHPA as lands that have been designated and set aside for purposes of protecting the habitat value within the remaining large expanses of undisturbed area in the City's coastal overlay zone. Although some resources rising to the level of ESHA may exist outside the MHPA within the large undeveloped areas of the City, the vast majority of ESHA of significance is contained within the MHPA. Areas of ESHA that are not included in the MHPA are not expected to be affected by brush management activities associated with the protection of existing development.

The proposed regulations are inconsistent with many certified LUP policies addressing the protection of sensitive resources, and the Commission finds these inconsistencies must be addressed through the inclusion of several suggested modifications. The best approach for addressing all identified issues is through modifications that add regulations



applicable to properties within the Coastal Overlay Zone, rather than modifying the City's proposed language which will apply to the remainder of the City not subject to the provisions of the certified LCP and the Coastal Act. This is true for several reasons: 1) the proposed ordinance language has been in effect in areas outside the coastal overlay zone for some time already and to modify those regulations again could be confusing to the general public; 2) many of the suggested modifications address coastal development permit requirements, which would only apply to properties within the coastal overlay zone; 3) having the suggested modifications apply only in the coastal overlay zone will be easier for the City to implement and enforce; and, 4) the applicable regulations will be more clear to individual property owners.

The suggested modifications will add a new section to the ordinances, as proposed, and identify what activities will require a coastal development permit (CDP) and mitigation for impacts to ESHA. The suggested modifications also differentiate between existing structures, development on existing legal lots, and new subdivision of land and identify how the brush management regulations differ for those types of development. The suggested regulations require use of all available structural and design features that could reduce the severity of Zone Two brush management impacts. They prohibit the use of goats for brush management within the coastal overlay zone, and offer the City an alternative of issuing itself one CDP instead of issuing many for individual property owners. Each suggested modification will be explained in more detail in the following findings.

**Suggested Modification #1 (m.1)** explains the relationship between the new ordinance language suggested herein and other municipal code sections and guidelines. The modification provides that the suggested language will be controlling if any conflicts arise between it and the rest of the brush management regulations. The modification further provides that its language is also controlling in case of conflicts with other City ordinances, especially the Environmentally Sensitive Lands regulations, or the guidelines contained in the Land Development Manual.

Although the City's MSCP is not officially part of the LCP, it is relied upon heavily in the ESL regulations certified in 1998 as part of the Commission's action in adopting the LDC. Extensive mapping was done of the MHPA boundaries and steep slope areas in each LUP segment during the City's development of the LDC and MHPA. Most LUP segments of San Diego are comprised of dense urban development. Because of San Diego's topography, much of this development occurs on mesa tops surrounding urban canyons. With the exception of those canyons that connect with large areas of undeveloped lands, most urban canyons are isolated. In addition to the isolation reducing the value of these canyons as wildlife habitat, the surrounding dense development has resulted in significant encroachment of exotic, and sometimes invasive, plant species, humans, and domestic animals into the canyons.

Thus, most urban canyons are not included in the MHPA preserve lands, and would not meet the Coastal Act definition of ESHA, due to their loss of function as either viable habitat or active wildlife corridors. Although these canyons may include formal open space and some sensitive biological resources as defined in the City's LDC, the

Commission finds that implementing Zone Two brush management within those isolated, urban canyons would not constitute a significant disruption of habitat values nor impact ESHA. This finding is consistent with the adoption of the LDC in 1998. For this reason, most brush management activities associated with existing structures in the heavily urbanized portion of San Diego would not require a coastal development permit because they would not result in removal of major vegetation.

The exception would be for those urban canyons that have retained a connection to larger areas of native vegetation, still function as viable wildlife habitat or wildlife corridors, and are mapped as part of the MHPA. In some cases, Zone Two brush management associated with existing structures may extend into such areas. Although some structural or design techniques may be applied retroactively to existing structures, brush management activity is still likely to be required off-site, and, in some cases, on-site within MHPA lands. Where existing setbacks are inadequate, this could result in the entire 100 feet, or more, of fuel modification occurring on adjacent MHPA lands. Zone Two brush management is not intended to actually remove vegetation, but by reducing the vegetation height over half the property, then pruning and thinning the remainder, implementation of Zone Two brush management results in a significant disruption of habitat value. The Commission finds that such encroachment within ESHA is an adverse impact, and that in-kind mitigation for the loss of such habitat value is appropriate.

In most cases, such impacts to ESHA are not consistent with Section 30240 of the Coastal Act and the variety of habitat and open space protection policies contained in the certified LCP Land Use Plans. However, brush management to protect existing structures from significant fire hazard qualifies as maintenance activity. As explained previously, however, brush management activities within ESHA require a permit in order to minimize adverse effects to the ESHA. The suggested modifications proposed here would require the City to impose feasible permit conditions that minimize adverse effects to ESHA while still allowing brush management activities that are necessary to maintain the safety of existing structures. The modifications also require mitigation for those adverse effects that cannot be entirely avoided.

**Suggested Modification #1 (m.2)** addresses those circumstances where brush management activities would be considered an impact on ESHA (i.e. specific vegetative communities in this context) and would, thus, require mitigation. Specifically within the City of San Diego, any brush management activities within southern foredunes, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub, and coastal sage scrub/chaparral communities (all Tier I and Tier II habitats identified in the LDC and Biology Guidelines), would be considered an adverse impact to ESHA and would require mitigation. This requirement would also apply to any other vegetative communities supporting threatened or endangered species. Brush management activities in these habitats would not be exempt from CDP requirements, and mitigation consistent with the certified LDC (purchase of lands to add to the MHPA or in-kind creation/substantial restoration of lands already in the MHPA) would be required at the time of disturbance. This definition of ESHA addresses the kinds of habitat that may be affected by the City's

brush management requirements. It is not a comprehensive definition of all ESHA within the City.

The City acknowledged the extent of MHPA which would be affected through implementation of the proposed brush management regulations through adoption of Resolution Number R-300799, adopted on September 6, 2005, and attached as Exhibit #4 which authorizes the City Manager to increase the conservation target of land under the City's MSCP Subarea Plan by 715 acres. This resolution was adopted at the request of the California Department of Fish and Game and the U. S. Fish and Wildlife Service as a means to replace the lost habitat value in the areas of expanded brush management within existing MHPA lands. The 715 acres is added to the City's previous goal of 52,012 acres to be conserved city-wide. Of this 715 acres, 113.6 acres addresses potential Zone Two impacts within the coastal overlay zone and must eventually be added to areas conserved within that zone.

However, the Commission finds satisfaction of the mitigation requirement sometime in the future is not adequate and should be addressed at the time of impact. The City has expressed concern that requiring mitigation of individual property owners will result in a failure to comply with the proposed brush management regulations. The Commission acknowledges that concern, but finds mitigation necessary to meet the LUP standards and to assure no net loss of habitat value in the coastal overlay zone. One solution to this concern would be for the City to issue itself a master CDP for all brush management to occur within public open space and dedicated MHPA lands. The brush management activities authorized in that CDP could be implemented by individual property owners, and the City would be responsible for providing a comprehensive mitigation program. This potential alternative is addressed in **Suggested Modification #1 (m.8)**.

**Suggested Modification #1(m.3)** establishes how the brush management zones are measured for existing development. In nearly all cases, the 100 feet is measured from the existing habitable structure on the property. However, some existing properties contain non-habitable, non-fire-rated accessory structures, from which the brush management zones may be measured, provided that no impacts to environmentally sensitive habitat areas (ESHA) within public open space or designated MHPA lands would result. If such impacts would result, Suggested Modification #3 requires that the non-inhabited, non-fire-rated accessory structures shall be removed or relocated to avoid such impacts.

**Suggested Modification #1 (m.4)** provides that a coastal development permit is required for any brush management activities that would impact environmentally sensitive habitat areas (ESHA) within public open space or designated MHPA, and that such unavoidable impacts require mitigation, which may include either purchase of additional lands to add to the MHPA within the coastal overlay zone, or significant restoration of lands already in the MHPA.

**Suggested Modification #1 (m.5)** applies when existing legal lots are improved or redeveloped, as there is greater potential to limit the amount of disturbance to adjacent ESHA on MHPA lands by appropriate siting of development and implementation of all fire safety building design features. As much as possible of the required total 100 feet,

including all of Zone One, should be accommodated within the private property; however, the size of many existing legal lots will not allow all of Zone Two to be accommodated entirely on-site. Constructing new development on existing legal lots, or redeveloping existing developed legal lots should avoid impacts to ESHA when possible. Any unavoidable impacts would require mitigation similar to brush management for existing structures. The City has identified that there are only nine existing, vacant legal lots on the urban/wildland interface within the coastal overlay zone at this time. These only include the vacant lots within the urbanized areas, not undeveloped lands outside the existing line of development.

In the future, already developed lots may also be redeveloped, or existing development may be demolished creating new vacant legal lots. The regulations outlined above would apply to these types of development as well, although a CDP would likely be required for development of these properties whether or not they are located adjacent to MHPA lands. Since the property would not be constrained by existing structures, the potential to accommodate more of Zone Two brush management on the site exists. Thus, maximum setbacks and all identified structural/design features must be employed first, to reduce or eliminate the need for brush management within MHPA lands. It is recognized, however, that most existing urban legal lots are too small to accommodate all brush management on-site. As with existing structures, any encroachments onto MHPA lands would require mitigation as described above.

**Suggested Modification #1 (m.6)** applies to all new subdivision of land. Where new subdivision of land is proposed, the Commission finds it inappropriate to permit any encroachment into ESHA to meet the brush management requirements for new development. In such subdivision of land, only as many lots as can accommodate the full 100 foot brush management requirement within the proposed lot and outside ESHA, should be created. For the most part, new subdivisions will only occur beyond the existing urban/wildland interface, since that is the only area of the City where large private undeveloped holdings still exist. In many cases (perhaps in most cases), these lands are also within the mapped MHPA, where development regulations apply which will take into consideration brush management regulations as part of the CDP for the development.

Within the MHPA, the certified LCP will allow development of up to 25% of private properties, with the remaining 75% retained as public open space in perpetuity. The 75% would either be dedicated to the City in fee title or would be covered by a conservation easement in favor of the City. The certified LCP requires any development to be located on the least sensitive 25% of the site. Suggested Modification #6 would require, within the coastal overlay zone, that all brush management is accommodated within the allowable developable area, with Zone Two not extending into ESHA within public open space or MHPA lands. Although the City may permit Zone Two to encroach into open space outside the coastal overlay zone, such encroachment into ESHA for new subdivisions would not be allowed within the coastal overlay zone.

**Suggested Modification #1 (m.7)** prohibits using goats (or other animals) for brush management purposes in the coastal overlay zone. The Commission finds it unlikely that

goats would distinguish between native and non-native plants, and comments on the project EIR point out that goats will not eat dead plant material, which is the most flammable type of vegetation. Moreover, the regulations would allow up to 75 goats on every acre. Even with constant supervision, it would appear difficult to stop up to 75 goats from eating as soon as the 50% reduction in height has occurred or to stop them when the vegetation reaches six inches in height. The City has already identified that it is financially unable to provide personnel to achieve the proposed brush management goals, without the added task of monitoring goats. Therefore, Suggested Modification #7 simply prohibits the use of goats, or any other animals proposed for the same use, within the coastal overlay zone. The Commission finds the prohibition of goats for brush management is the only way the proposed regulations can be found consistent with the City's certified Land Use Plans at this time and without specific regulations addressing use of goats in the LCP.

In conclusion, the Commission finds that the City's proposed amendments to its brush management regulations of the Landscape Ordinance offer a potential for far greater impacts on environmentally sensitive habitat areas within public open space, parkland and the MHPA than does the current LDC, which serves as the implementation plan for the certified LCP. The Commission recognizes the need to provide fire safety to the City's residents, but also recognizes that development in hazardous areas (i.e., adjacent to wildlands) greatly exacerbates this need. In order to protect environmentally sensitive habitat areas within public open space and MHPA lands to the greatest extent possible, the Commission finds it can approve the proposed brush management revisions only with the suggested modifications addressed herein. As modified, the Commission, therefore, finds the proposed implementation plan amendment consistent with the various certified LUP components of the City's LCP and adequate to carry out the LUP provisions.

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

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. 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 a LCP submittal or, as in this case, a LCP amendment submittal, to find that the approval of the proposed LCP, or LCP, as amended, conforms to CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

In this particular case, the City drafted and circulated an EIR for the proposed LCP amendments. The majority of public comments addressed three concerns, all related to the protection of sensitive habitats: 1) all buildings should be completely fire-proofed before any additional brush clearance occurs; 2) public education about the adverse effects of brush management on habitat, and instruction on how to do brush management correctly to minimize those impacts is critical; and 3) goats should not be used because they are indiscriminate eaters (i.e., cannot distinguish native from non-native vegetation, for one thing) and won't consume the dead and dying plant material. Another common concern was the City's policy that Zone Two brush management is "impact neutral" and requires no mitigation for impacts; in light of the proposed expansion of Zone Two area, the commenters felt this position was not longer supportable. All of these concerns have been addressed in the recommended suggested modifications.

In this particular case, the requested LCP amendment, as submitted by the City, does not minimize adverse environmental effects to the extent feasible, particularly with regard to land use and biological resources. The Commission's suggested modifications minimize adverse effects to ESHA to the extent feasible while still allowing adequate safety for existing structures against fire hazards. The mitigation that would be provided with the suggested modifications ensures that the impacts that do occur to ESHA are not significant. Therefore, the Commission denies the LCP amendment and then approves it with suggested modifications addressing these issues. As modified, the Commission finds that there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the LCP amendment may have on the environment. Therefore, the Commission finds that approval of the LCP amendment with suggested modifications will not result in any significant adverse environmental impacts.

(O-2005-46)

ORDINANCE NUMBER O-19413 (New Series)

ADOPTED ON SEPTEMBER 19, 2005

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 4, ARTICLE 4, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 44.0307, BY RENUMBERING SECTION 44.0307.1 TO SECTION 44.0307(c), ALL PERTAINING TO HEALTH AND SANITATION; AMENDING CHAPTER 5, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 55.0101; AMENDING CHAPTER 5, ARTICLE 5, BY REPEALING DIVISION 92, RELATING TO APPENDICES TO THE FIRE CODE; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 3, BY AMENDING SECTION 142.0360, PERTAINING TO FENCE REGULATIONS; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTIONS 142.0402; 142.0403 AND 142.0412; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 143.0310, ALL RELATING TO BRUSH MANAGEMENT REGULATIONS.

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

Section 1. That Chapter 4, Article 4, Division 3, of the San Diego

Municipal Code is amended by amending Section 44.0307 and renumbering

Section 44.0307.1 to Section 44.0307(c), to read as follows:

**§44.0307 Cattle, Goats and Sheep**

- (a) It is unlawful to bring or maintain, within a non-agricultural zone within the City, any cattle, bovine animals, goats, or sheep.
- (b) Section 44.0307(a) shall not apply to the following:
  - (1) Dairies or dairy farms licensed during the month of July 1953.
  - (2) Any goats brought in temporarily, to privately-owned non-agricultural zones for the purpose of performing brush

-PAGE 1 OF 16 -



management in accordance with the Land Development Code section 142.0412, Brush Management, subject to the following requirements:

- (A) The goats shall be managed and monitored 24-hours a day by a person who has at least two years experience in the raising, handling, and controlling of goats, and who carries a minimum of \$1 million of liability insurance, to prevent escapes, harassment from predators or humans, or over-browsing.
- (B) The owner of the property to be browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal and all owners and residents with property located immediately adjacent to the area to be browsed by goats, at least 10 business days prior to beginning operation. This notice shall identify section 44.0307 as the authority for the temporary use of goats.
- (C) The owner of the property to be browsed by the goats shall obtain written permission from the owner of any property through which the goats must gain access to the area to be browsed by goats, at least 10 business days prior to beginning operation.



- (D) The area to be browsed by goats shall be measured, staked, and appropriately fenced with temporary electrically-charged fencing to delineate the brush management areas required under the Land Development Code section 142.0412, Brush Management. Signs must be posted at 25-foot intervals along the fence warning the possibility of mild electric shock.
- (E) When browsing, no more than 75 goats are permitted on any single acre of the *premises*.
- (F) When browsing, the goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced, in accordance with the Land Development Code section 142.0412, Brush Management.
- (G) The goats shall remain within a secure enclosure at all times. The goats may be moved to a separate holding pen at night, which shall be located the maximum distance practicable from residences. In addition to the requirements set forth in section 44.0307(c), droppings in the holding pen shall be removed and properly disposed of daily.

- (H) Brush Management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the clearing would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
  - (I) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished. No later than 5 business days from the date of the removal of the goats, the owner of the property browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal of the removal of the goats.
- (3) Any use of goats by the City of San Diego or its permittee for the purpose of performing brush management on City-owned property in non-agricultural zones in accordance with the Land Development Code section 142.0412, Brush Management, or for weed abatement, are subject to the requirements set forth in section 44.0307(b) (2) (A) – (I) and 44.0307(c).
- (c) Property owners shall remove and properly dispose of droppings from cattle, goats or sheep as needed to prevent accumulation, to avoid a health

or sanitation problem, or the breeding of flies, and to prevent discharge into the *Storm Water Conveyance System*, as defined in section 43.0302.

Section 2. That Chapter 5, Article 5, Division 1 of the San Diego Municipal Code is amended by amending Section 55.0101 to read as follows:

**§55.0101 Adoption of the California Fire Code (2001 Edition) Purpose and Intent, and Administrative Provisions**

- (a) [No change.]
- (b) San Diego Fire Code. The document known as the San Diego Fire Code consists of the following documents:
  - (1) and (2) [No change.]
  - (3) Sections 55.0101 through 55.9105 of Chapter V, Article 5, of the San Diego Municipal Code.
  - (4) [No change.]
- (c) Relationship of San Diego Municipal Code section numbers to C.F.C. (2001 Edition) section numbers. Sections within the C.F.C. (2001 Edition) retain those same section numbers when referred to within the text of the San Diego Municipal Code. Thus, Section 901 of the C.F.C. (2001 Edition) will be cited as "C.F.C. 901 (2001 Edition)" within the text of the San Diego Municipal Code.

Where a section of the C.F.C. (2001 Edition) is adopted with changes, it is promulgated within the Municipal Code by using a numbering system to reflect both the Municipal Code numbering system and the C.F.C. (2001

Edition) numbering system. For example, section 901 of the C.F.C. (2001 Edition) is adopted with changes in San Diego Municipal Code section 55.0901. The first two digits to the left of the first decimal point are the chapter and article number of the San Diego Municipal Code. The two digits to the right of the first decimal point represent the Municipal Code's division number. The last four digits reflect the numbering system of the C.F.C. (2001 Edition). A zero (0) after the decimal point is a filler to accommodate the San Diego Municipal Code numbering system and is added when the section number in C.F.C. (2001 Edition) is less than four digits.

The Municipal Code numbering system reflects the numbering system of the C.F.C. (2001 Edition) excluding the chapter and article numbers to the left of the decimal point and when appropriate, the utilization of a filler zero (0). Consequently, with these modifications, the numbering in the San Diego Municipal Code sections 55.0101 through 55.9105 corresponds with the numbering system change in the C.F.C. (2001 Edition).

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

Section 3. That Chapter 5, Article 5, of the San Diego Municipal Code is amended by repealing Division 92.

Section 4. That Chapter 14, Article 2, Division 3, of the San Diego Municipal Code is amended by amending Section 142.0360, to read as follows:

**§142.0360 Electrically Charged and Sharp-Pointed Fence Regulations**

(a) Electrically Charged *Fences*

- (1) Electrically charged *fences* are permitted in the IH and IS zones and for agricultural uses in agricultural zones, if the *fence* is at least 600 feet from a residential zone, and for temporary control of goats used for brush management in any non-agricultural zones in compliance with the Land Development Code section 142.0412, Brush Management, and section 44.0307.

(2) – (3) [No change.]

(b) [No change.]

Section 5. That Chapter 14, Article 2, Division 4 of the San Diego Municipal Code is amended by amending Sections 142.0402, 142.0403 and 142.0412 to read as follows:

**§142.0402 When Landscape Regulations Apply**

- (a) [No change.]
- (b) [No change to first paragraph.]

Table 142-04A

Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 8 [No change.]				

Type of Development Proposal	Applicable Regulations	Required Permit Type/ Decision Process
9. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.		No permit required by this division if work is performed in accordance with applicable regulations
10. Undeveloped public or private premises, within 100 feet of a structure, that contain native or naturalized vegetation or environmentally sensitive lands	142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11. [No change.]		

**§142.0403 General Planting and Irrigation Requirements**

[No change to first paragraph.]

(a) [No change.]

(b) Plant Material Requirements

(1) through (9) [No changes.]

(10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are 16 feet above the *grade* of the travel way.

(11) through (14) [No changes.]

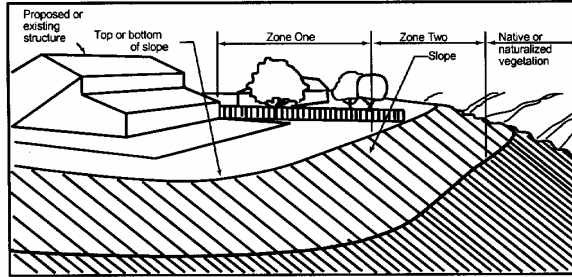
(c) - (d) [No change.]

**§142.0412 Brush Management**

- (a) Brush management is required in all base zones on the following types of premises:
- (1) Publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.
  - (2) Except for *wetlands, environmentally sensitive lands* that are within 100 feet of a *structure*, unless the Fire Chief deems brush management necessary in *wetlands* in accordance with Section 142.0412(i). Where brush management in *wetlands* is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).
- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called "Zone One" and "Zone Two" as shown in Diagram 142-04D.

**Diagram 142-04D**

Brush Management Zones



- (1) [No change.]
- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or non-irrigated vegetation.
- (c) Except as provided in Sections 142.0412(f) or 142.0412(i), the width of Zone One and Zone Two shall not exceed 100 feet and shall meet that shown in Table 142-04H. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

**Table 142-04H**

**Brush Management Zone Width Requirements**

Criteria	Zone Widths	
	Zone One Width	35 ft.
Zone Two Width	65 ft.	.



- (d) Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.
- (e) Where Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
- (1) through (3) [No changes.]
- (f) The Zone Two width may be decreased by 1 ½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width .
- (g) Zone One Requirements
- (1) The required Zone One width shall be provided between native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.
- (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible construction that provides a means for transmitting fire to the

habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and nonhabitable gazebos that are located within brush management Zone One shall be of noncombustible construction.

(3) through (7) [No changes.]

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) [No change.]
- (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.

- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
- (C) All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall

not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.

(D) [No change.]

(6) Zone Two shall be maintained on a regular basis by pruning and thinning plants and controlling weeds.

(7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on *premises* with existing *structures*, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.

(i) [No change to the paragraph]

(1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and

(2) The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and

(3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

(j) – (k) [No changes.]

(l) Brush management for existing *structures* shall be performed by the owner of the property that contains the native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring property.

Section 6. That Chapter 14, Article 3, Division 1 of the San Diego Municipal Code is amended by amending Section 143.0110 to read as follows:

**§143.0110** When Environmentally Sensitive Lands Regulations Apply

[No change to the paragraph]

(a) and (b) [No change]

(c) [No change to the paragraph]

(1) through (6) [No change]

(7) Except for brush management in *wetlands* in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

Section 7. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 8. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, except that the provisions of this ordinance amending Articles 2 and 3 of Chapter 14, 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.

Section 9. That the City Manager be directed to forward to the California Coastal Commission the amendments required to be certified as Local Coastal Program amendments.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By \_\_\_\_\_  
Hilda Ramirez Mendoza  
Deputy City Attorney

[NOTE TO CITY CLERK: While awaiting California Coastal Commission certification of the amendments to sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310, the corresponding regulations effective within the Coastal Overlay Zone have been renumbered to sections 132.0404, 132.0405, 132.0406, 132.0407, and 132.0408 respectively. Upon the unconditional certification of these provisions as a local coastal program amendment, sections 132.0404 through 132.0408, and the Editors Notes for sections 142.0360, 142.0402, 142.0403, 142.0412, and 143.0310 will be deleted.]

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Or.Dept: FireRescue  
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COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

ATTACHMENT 1

§55.0101

**Adoption of the California Fire Code (2001 Edition) Purpose and Intent, and Administrative Provisions**

- (a) Portions of California Fire Code (2001 Edition) adopted. Except as otherwise provided in this Article, the California Fire Code (2001 Edition), including appendices, is hereby adopted. A copy of the California Fire Code (2001 Edition), is on file in the office of the City Clerk as Document No. OO-769841. The California Fire Code (2001 Edition), is referred to in this Article as "C.F.C. (2001 Edition)." The California Fire Code Standards (2001 Edition), is hereby adopted and is to be used in conjunction with the C.F.C. (2001 Edition). A copy of the California Fire Code Standards (2001 Edition), is on file in the office of the City Clerk as Document No. OO-18659, and may be cited in this Article as "C.F.C. Standards (2001 Edition)."
- (b) San Diego Fire Code. The document known as the San Diego Fire Code consists of the following documents:
- (1) Those portions of the C.F.C. (2001 Edition), adopted by the City in section 55.0101 with changes as specified in this Article.
  - (2) C.F.C. Standards (2001 Edition).
  - (3) Sections 55.0101 through ~~55.9204~~ 55.9105 of Chapter V, Article 5, of the San Diego Municipal Code.
  - (4) Applicable sections of the California Code of Regulations.
- (c) Relationship of San Diego Municipal Code section numbers to C.F.C. (2001 Edition) section numbers. Sections within the C.F.C. (2001 Edition) retain those same section numbers when referred to within the text of the San Diego Municipal Code. Thus, Section 901 of the C.F.C. (2001 Edition) will be cited as "C.F.C. 901 (2001 Edition)" within the text of the San Diego Municipal Code.

EXHIBIT NO. 2
Strike-out/Underline Ordinance LCP Portion begins on Pg. 11 with Section 142.0402
San Diego LCPA #3-05B/ Brush Management Regs.
 California Coastal Commission

Where a section of the C.F.C. (2001 Edition) is adopted with changes, it is promulgated within the Municipal Code by using a numbering system to reflect both the Municipal Code numbering system and the C.F.C. (2001 Edition) numbering system. For example, section 901 of the C.F.C. (2001 Edition) is adopted with changes in San Diego Municipal Code section 55.0901. The first two digits to the left of the first decimal point are the chapter and article number of the San Diego Municipal Code. The two digits to the right of the first decimal point represent the Municipal Code's division number. The last four digits reflect the numbering system of the C.F.C. (2001 Edition). A zero (0) after the decimal point is a filler to accommodate the San Diego Municipal Code numbering system and is added when the section number in C.F.C. (2001 Edition) is less than four digits.

The Municipal Code numbering system reflects the numbering system of the C.F.C. (2001 Edition) excluding the chapter and article numbers to the left of the decimal point and when appropriate, the utilization of a filler zero (0). Consequently, with these modifications, the numbering in the San Diego Municipal Code sections 55.0101 through ~~55.9201~~ 55.9105 corresponds with the numbering system change in the C.F.C. (2001 Edition).

- (d) Definitions. Whenever the following terms appear within the text of the C.F.C. (2001 Edition), they have the following definitions:

*Chief* means the Fire Chief.

*Chief of the Fire Prevention Bureau* means the Fire Marshal of The City of San Diego.



*Corporation Counsel* means the City Attorney.

*Municipality or jurisdiction* means The City of San Diego.

- (e) Prospective and Retrospective Application. Unless specifically stating that they may be applied prospectively only, provisions of the San Diego Fire Code may be retrospectively applied in accordance with C.F.C. section 102 (2001 Edition).
- (f) Effective Date. Unless otherwise stated in a specific San Diego Municipal Code section or C.F.C. (2001 Edition) section adopted by the City, the effective date of the San Diego Fire Code shall be August 19, 1999.
- (g) Reference to California Building Code. Any reference within the San Diego Fire Code to the "C.B.C." shall refer to those provisions of the California Building Code as adopted by Chapter IX of the San Diego Municipal Code.
- (h) Portions of the C.F.C. (2001 Edition) not adopted. The following sections of the C.F.C. (2001 Edition) are not adopted:

APPENDIX I-A

APPENDIX I-B

APPENDIX II-E

APPENDIX VI-C

103.1.4

901.4.3

902.2.2.1

903.2

2501.10.4

2501.18

7701.4

7802.4.3

7802.4.4.2

Table 81-A

Table 81-B

~~§55.9201 — Special Hazards Appendix II - A Suppression and Control of Hazardous Fire Areas~~

~~9201.1 Scope through 9201.16 Clearance of brush or vegetative growth from structures. Sections 9201.1 through 9201.16 of the C.F.C. (2001 Edition) have been adopted without change pursuant to section 55.0101(a).~~

~~9201.16.1 General through 9201.16.8 Maintenance of the Approved Brush Management Plan.~~

~~9201.16.1 General. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas designated in Table A by the Fire Chief in San Diego Municipal Code section 55.9201, subsection 9201.16.5, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:~~

- ~~(a) — Maintain around and adjacent to the building or structure an effective firebreak clear of brush and vegetation for a distance therefrom equal to the applicable total Brush Management Zones Depth from Table B found in San Diego Municipal Code section 55.9201, subsection 9201.16.5, on each side thereof or the property line, whichever is closest. Brush management in all zones shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council as set forth in section six (6) of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendments.~~
- ~~(b) — Remove that portion of any tree which extends within ten (10) feet of the outlet of any chimney.~~

~~(c) — Maintain any tree adjacent to or overhanging any building free of dead wood.~~

~~(d) — Maintain the roof of any structure free of leaves, needles or other dead vegetative growth.~~

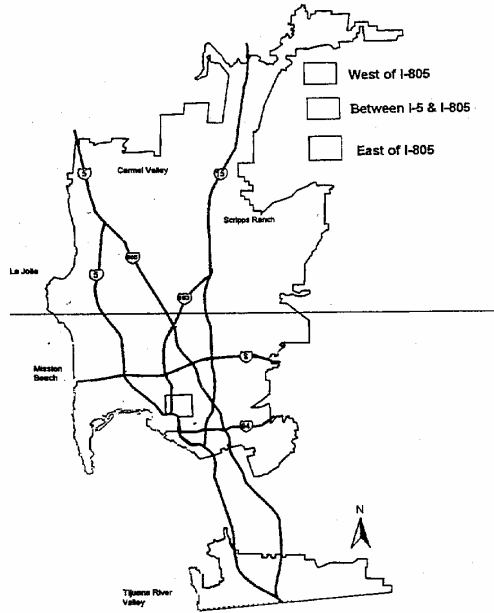
~~9201.16.2 Vacant land. The Fire Chief may require any person owning, leasing, controlling or maintaining vacant property which abuts land upon which a building or structure is located that is covered under San Diego Municipal Code section 55.9201, subsection 9201.16, to clear brush and vegetation on their property and to keep it clear at all times for up to the balance of the distances specified in Table B of San Diego Municipal Code section 55.9201, subsection 9201.16.5 from the building or structure on the abutting lot when necessary for public safety. Brush clearing and maintenance shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council set forth in Section six (6) of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendment.~~

~~9201.16.3 Safeguards during construction. Any person proposing to build a building or structure on property they own, lease, control, or maintain in, upon or immediately adjoining any hazardous fire area designated by the Fire Chief in Table A of San Diego Municipal Code section 55.9201, subsection 9201.16.5 shall at all times:~~

- (a) ~~Maintain around and adjacent to any building or structure an effective firebreak clear of brush and vegetation for a distance therefrom equal to the applicable total Brush Management Zones Depth, from Table B of San Diego Municipal Code section 55.9201, subsection 55.9201.16.5 on each side thereof. Brush Management in all zones shall be performed and maintained in accordance with Appendix II A of the U.F.C. (1994 Edition) and the standards adopted by the City Council set forth in Section 6 of the document entitled "City of San Diego Landscape Technical Manual," a copy of which is on file in the office of the City Clerk as Document No. RR-274506, including supplements and amendments.~~
- (b) ~~Remove that portion of any tree which extends within ten (10) feet of the outlet of any chimney.~~
- (c) ~~Maintain any tree adjacent to or overhanging any building free of dead wood.~~
- (d) ~~Maintain the roof of any structure free of leaves needles or other dead vegetative growth.~~

~~9201.16.4 Environmental Concerns. The requirements of San Diego Municipal Code section 55.9201, subsection 9201.16.1; section 55.9201, subsection 9201.16.2 and section 55.9201, subsection 9201.16.3 do not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, provided they do not form a means for rapidly transmitting fire from any surrounding native growth to any building or structure, and that these requirements shall not be construed to require brush management on publicly owned open space and parkland.~~

Figure 1



9201.16.5 Use of Tables A and B.

Table A

FIRE HAZARD SEVERITY CLASSIFICATION			
LOCATION OF STRUCTURE	FIRE DEPARTMENT PRIORITY DESIGNATION		
	(A)	(B)	(C)
WEST OF I-5	MOD.	LOW	LOW
BETWEEN I-5 & 805	HIGH	MOD.	LOW

Table A establishes a fire hazard severity classification rating based upon the priority designation of an area and a structure's geographic location in the City.

Table B

BRUSH MANAGEMENT ZONES DEPT				
ZONE	DESCRIPTION	FIRE HAZARD SEVERITY CLASS		
		LOW	MOD.	HIGH
1	Ornamental landscape or Brush Clearance	30' min.	35' min.	40' min.
3	Low Volume plantings or selective thinning	20' avg.	30' avg.	40' avg.
3	Selective thinnings	0' avg.	20' avg.	30' avg.
	Total	50'	85'	110'

Table B establishes the required depth for each brush management zone based upon the fire hazard severity class identified in Table A.

For new structures adjacent to slopes requiring brush management, the Zone 1 depth within Table B may be reduced by ten (10) feet when all of the following architectural features are provided:

- (a) ~~The roof shall be of fire retardant construction. Wood shake or shingles, whether fire retardant or untreated, are not permitted; and~~
- (b) ~~Roof overhangs shall have an exterior surface equivalent to that required for one-hour fire resistive walls, and no eave vents shall be permitted for any portion of a structure located within the minimum set back distance in Table B; and~~
- (c) ~~All eave vents shall be covered with wire screen not to exceed 1/4 inch mesh. On all lots which have received approval on a tentative map subsequent to November 15, 1989, where structures will be located above slopes requiring brush management, which have a gradient of 4:1 (25%) or steeper and are fifty (50) feet in vertical height or higher, the following shall apply:~~
  - (1) ~~Structures shall be set back for a distance equal to the minimum required depth established in Table B for Zone 1. The setback shall be measured from those portions of a slope with gradients of 4:1 (25%) or steeper, and~~
  - (2) ~~Notwithstanding any provision to the contrary, on any legal building lot for which a tentative map has been approved prior to November 15, 1989, the applicable Zone 1 setback from Table B shall not be required as a condition of a subsequent permit when~~

substantial conformance exists with previously approved  
discretionary permits.

(d) — For new structures adjacent to slopes requiring brush management, the depth of the applicable Zone 1 setback from Table B may be reduced in accordance with Section 55.9201.16.5. For new structures, the depth of the applicable Zone 3 shall be increased one foot for every one-foot reduction of the building setback below the corresponding Zone 1 depth established within Table B.

9201.16.6 Corrective Action. In the event that any of the conditions regulated by San Diego Municipal Code section 55.9201, subsection 9201.16.1; section 55.9201, subsection 9201.16.2, or 55.9201, subsection 9201.16.3 exist, the Fire Chief may give notice to the owner of the property upon which such condition exists to correct the prohibited condition. If the owner fails to correct such condition, the Fire Chief may cause the condition to be corrected and make the expense of the correction a lien upon the property upon which the condition exists, pursuant to the Municipal Code provisions governing the abatement of nuisance (San Diego Municipal Code sections 13.0301 through 13.0308).

9201.16.7 Publicly Owned Land. On all lots which have received approval on a tentative map subsequent to November 15, 1989, all new structures shall be sited such that no brush management will occur on publicly owned open space or parklands.

9201.16.8 Maintenance of the Approved Brush Management Plan. The approved brush management plan shall be maintained in accordance with guidelines set



~~forth by the Fire Chief. If a Development Services Department permit is required, the approved brush management plan shall be maintained in accordance with guidelines set forth by the Development Services Director in addition to those set forth by the Fire Chief. If publicly owned space or parklands are involved, the Park and Recreation Director may establish additional requirements for maintenance.~~

~~9201.17 Clearance of Brush or Vegetative Growth Roadways through 9201.24 Liability for Damage. Sections 9201.17 through 9201.24 of the C.F.C. (2001 Edition) have been adopted without change pursuant to section 55.0101(a).~~

**§142.0402 When Landscape Regulations Apply**

- (a) This division applies to all proposed planting and irrigation work.
- (b) Table 142-04A provides the applicable regulations and type of permit required by this division for the landscaping required in conjunction with the specific types of *development* proposals. Any project that proposes more than one of the types of *development* shown is subject to all of the regulations for each type of *development*.

Table 142-04A

Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1.	New structures that equal or exceed the gross floor area shown (Column B), and are located in the zone or are proposing the use category shown (Column C)	Gross floor area (in square feet)	Zone or Proposed Use Category	
	1,000 sf	RM or Commercial Zones; or Multiple Dwelling Unit Residential use subcategory or Commercial Development	142.0403-142.0407, 142.0409, and 142.0413	Building Permit/ Process One
	5,000 sf	Industrial Zones; or Industrial Development		
2.	Additions to structures or additional structures on developed properties that exceed the gross floor area shown or that increase the gross floor area by the percent shown (Column B), and are located in the zone or are proposing the category of use shown (Column C)	Gross floor area or Percent Increase in gross floor area (in square feet or percentage of lot area)	Zone or Proposed Use Category	
	1,000 sf or 20 percent increase	Multiple Dwelling Unit Residential Zones or use subcategory	142.0403-142.0407, 142.0409, 142.0410(a), and 142.0413	Building Permit/ Process One
	1,000 sf or 10 percent increase	Commercial Zones; or Commercial Development		
	5,000 sf or 20 percent increase	Industrial Zones; or Industrial Development		
3.	New permanent parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones		142.0403, 142.0406-142.0409, and 142.0413	Building Permit/ Process One
4.	New temporary parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones		142.0403, 142.0408, 142.0409, and 142.0413	Building Permit/ Process One

Type of Development Proposal	Applicable Regulations	Required Permit Type/ Decision Process
5. Additions or modifications to existing permanent or temporary parking and <i>vehicular use area</i> that increase the number of parking spaces by four or more	142.0403, 142.0408, 142.0409, 142.0410(b), and 142.0413	Building Permit/ Process One
6. <i>Single dwelling unit residential use projects proposing new private or public rights-of-way</i>	142.0403, 142.0409, and 142.0413	Building Permit/ Process One
7. Projects proposing slopes with gradients steeper than 4:1 (4 horizontal feet to 1 vertical foot) that are 5 feet or greater in height	142.0403, 142.0411, and 142.0413	Building Permit/ Process One
8. Projects creating disturbed areas of bare soils, or projects with existing disturbed areas	142.0403, 142.0411, and 142.0413	No permit required by this division
9. <del>New structures, additions to structures, or subdivisions that create lots where new structures could be located on properties adjacent to any contiguous, highly flammable area of native or naturalized vegetation greater than 10 acres or contiguous area of native or naturalized vegetation greater than 50 acres. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure.</del>	142.0403, 142.0412, and 142.0413	Building Permit/ Process One No permit required by this division if <u>work is performed in accordance with applicable regulations</u>
10. <del>Existing structures on properties that are adjacent to any area of highly flammable native or naturalized vegetation. Undeveloped public or private premises, within 100 feet of a structure, that contain native or naturalized vegetation or environmentally sensitive lands</del>	142.0403, 142.0412, and 142.0413	No permit required by this division if <u>work is performed in accordance with applicable regulations</u>
11. New trees or shrubs planted in the <i>public right-of-way</i>	142.0403 and 144.0409	<i>Public Right-Of-Way</i> Permit/ Process One

§142.0403 General Planting and Irrigation Requirements

All planting, irrigation, brush management, and landscape-related improvements required by this division must comply with the regulations in this section and with the Landscape Standards in the Land Development Manual.

- (a) Plant Point Schedule

Table 142-04B assigns plant points based on plant type and size and applies where plant points are required by this division.

Table 142-04B  
Plant Point Schedule

Proposed Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Proposed Shrub	1-gallon	1.0
	5-gallon	2.0
	15-gallon or larger	10.0
Proposed Dwarf Palm	Per foot of brown trunk height	5.0
Proposed Tree	5-gallon	5.0
	15-gallon	10.0
	24-inch box	20.0
	30-inch box	30.0
	36-inch box	50.0
	42-inch box	70.0
Proposed Broad Headed Feather Palm Tree	48-inch box and larger	100.0
	Per foot of brown trunk height	5.0

Proposed Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Proposed Feather Palm Tree	Per foot of brown trunk height up to 20 feet in height	3.0
	each feather palm tree over 20 feet in height	60.0
Proposed Fan Palm Tree	Per foot of brown trunk height up to 20 feet in height	1.5
	each fan palm tree over 20 feet in height	30.0

Existing Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
Existing Shrub	12-inch to 24-inch spread and height	4.0
	24-inch and larger spread and height	15.0
Existing Native Tree	2-inch caliper measured at 4 feet above <i>grade</i>	100.0
	each additional inch beyond 2 inches	50.0
Existing Non-Native Tree	2-inch caliper measured at 4 feet above <i>grade</i>	50.0
	each additional inch beyond 2 inches	25.0
Existing Broad Headed Feather Palm Tree	Per foot of brown trunk height	5.0
Existing Feather Palm Tree	Per foot of brown trunk height up to 20 feet in height	3.0
	each feather palm tree over 20 feet in height	60.0
Existing Fan Palm Tree	Per foot of brown trunk height up to 20 feet in height	1.5

Existing Plant Material		Plant Points Achieved per Plant
Plant Type	Plant Size	
	each fan palm tree over 20 feet in height	30.0

(b) Plant Material Requirements

- (1) Planting of invasive plant species, as described in the Landscape Standards of the Land Development Manual, is not permitted.
- (2) All existing, invasive plant species, including vegetative parts and root systems, shall be completely removed from the *premises* when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the *premises*.
- (3) Plant material species shall be used that will continue to meet the requirements of this division after installation.
- (4) Tree locations shall be measured horizontally from the centerline of the tree trunk at *proposed grade*.
- (5) A minimum root zone of 40 square feet in area shall be provided for all trees. The minimum dimension for this area shall be 5 feet. This minimum dimension and root zone area may be reduced where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage adjacent improvements.
- (6) Plant material shall be maintained in a healthy, disease-free, growing condition at all times.
- (7) All pruning shall comply with the standards of the National Arborist Association.
- (8) Any plant material required by this division that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs that die 3 years or more after installation shall be replaced with 15-gallon size, and required trees that die 3 years or more after installation shall be replaced with 60-inch box size material. The City Manager may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60- inch box tree.
- (9) Trees required by this division shall be self-supporting, woody plants with at least one well defined trunk and shall normally attain a mature height and spread of at least 15 feet.

- (10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are ~~14~~16 feet above the *grade* of the travel way.
  - (11) Shrubs required by this division shall be woody or perennial plants that are low branching or have multiple stems.
  - (12) Tree root barriers shall be installed where trees are placed within 5 feet of *public improvements* including walks, curbs, or *street* pavement or where new public improvements are placed adjacent to existing trees. The City Manager may waive this requirement where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage public improvements.
  - (13) Native plants shall be locally indigenous.
  - (14) Naturalized plant material shall be plantings that can survive without irrigation after initial plant establishment.
- (c) Irrigation Requirements
- (1) All required plant material shall be irrigated with a permanent, below-grade irrigation system unless specified otherwise in this division.
  - (2) All required irrigation systems shall be automatic, electrically controlled, and designed to provide water to all required plantings to maintain them in a healthy, disease-resistant condition.
  - (3) Irrigation systems shall meet the following design requirements:
    - (A) No irrigation runoff or overspray shall cross *property lines* or paved areas;
    - (B) The velocity of water flowing in irrigation system piping or supply pipes shall not exceed 5 feet per second downstream of the water meter;
    - (C) Irrigation systems shall be designed to minimize system maintenance requirement after installation. Above-ground irrigation system equipment that is exposed to potential damage shall be designed to be damage-resistant; an
    - (D) An approved rain sensor shutoff device is required for all systems and a moisture-sensing device that regulates the irrigation system for all lawn areas is required.

- (d) Planting Area Requirements
  - (3) Planting areas required by this division shall consist of the following:
    - (A) Low-growing woody or herbaceous groundcover, turf, shrubs, or trees;
    - (B) Unattached unit pavers, loose organic or inorganic materials, or *hardscape*; or
    - (C) Built improvements including water features, overhead *structures* (such as gazebos, trellis *structures*, etc.), or fixed seating.
  - (4) Planting areas may be counted toward the planting area required by this division if they are greater than 30 square feet in size with no dimension less than 3 feet.
  - (5) All required planting areas shall be maintained free of weeds, debris, and litter.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**EDITORS NOTE:** The Land Development Manual includes:

Coastal Bluffs and Beaches Guidelines  
Biology Guidelines  
Historical Resources Guidelines  
Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code

**§142.0412 Brush Management**

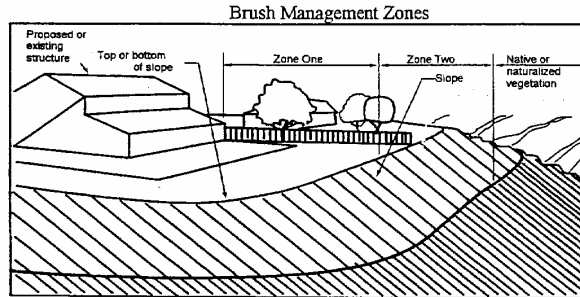
- (a) Brush management is required in all base zones on the following types of premises: ~~for the types of *development* listed below when they are adjacent to any highly flammable area of native or naturalized vegetation that is greater than 10 acres as mapped by the City of San Diego, or adjacent to any area of native or naturalized vegetation that is greater than 50 acres, as shown in Table 142-04A. However, within the Coastal Overlay Zone, brush management is required for all *coastal development*~~

~~within the MHPA and/or adjacent to steep hillsides containing sensitive biological resources~~

- (1) ~~New structures~~ Publicly or privately owned premises that are within 100 feet of a structure and contain native or naturalized vegetation.
  - (2) ~~Additions to structures~~ Except for wetlands, environmentally sensitive lands that are within 100 feet of a structure, unless the Fire Chief deems brush management necessary in wetlands in accordance with Section 142.0412(i). Where brush management in wetlands is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).
  - (3) ~~Subdivisions that create lots where new structures could be located.~~
  - (4) ~~Existing structures~~
- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around structures by providing an effective fire break between all structures and contiguous areas of ~~flammable~~ native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called "Zone One" and "Zone Two" as shown in Diagram 142-04D.



Diagram 142-04D



- (1) Brush management Zone One is the area adjacent to the *structure*, shall be least flammable, and shall consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with a gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property that received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the encroachment limitations set forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.
- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall consist of thinned, native or naturalized non-irrigated vegetation.
- (c) Except as provided in Sections 142.0412(f) or 142.0412(i), the width of Zone One and Zone Two shall not exceed 100 feet and shall meet or exceed that shown in Table 142-04H. Where *development* is adjacent to slopes or vegetation that meets the criteria shown in the table, the required Zone One and Zone Two width shall be increased by the dimension shown. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property

owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

Table 142-04H

Brush Management Zone Width Requirements

Criteria	Property Location	
	Zone Widths West of Interstate 805 and El Camino Real	East of Interstate 805 and El Camino Real
Minimum Zone One Width (See Section 142.0412(d))	20 <del>35</del> ft.	30 ft.
Additional Zone One Width (See Section 142.0412(e)) Required when development is adjacent to slopes greater than 4:1 gradient that are 50-foot or greater in vertical height; or adjacent to vegetation greater than 24 inches in height; or adjacent to the <i>MHPA</i>	5 ft.	5 ft.
Zone One Width Within the Coastal Overlay Zone for subdivisions containing steep hillsides with sensitive biological resources	30 ft. Min	
Minimum Zone Two Width (See Section 142.0412(f))	20 <del>65</del> ft.	40 ft.
Additional Zone Two Width Required when Zone Two is on slopes greater than 4:1 gradient that are 50-foot or greater in vertical height, or the vegetation in Zone Two is greater than 48 inches in height. This additional width is not required for Zone Two located within the <i>MHPA</i>	10 ft.	10 ft.

- (d) The width of brush management Zone One shall be increased by 10 feet for *structures* that do not meet all of the following requirements:
- (1) ~~Roof material shall be fire retardant. Wood shake shingles, whether fire retardant treated or untreated, are not permitted.~~
  - (2) ~~Walls, eaves, and overhangs shall be one-hour, fire resistive.~~
  - (3) ~~Eave vents shall be covered with wire screen not to exceed 1/4-inch mesh.~~

Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the

City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.

- (e) Where additional Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
  - (1) The required front *yard setback* of the base zone may be reduced by 5 feet,
  - (2) A sidewalk may be eliminated from one side of the *public right-of-way* and the minimum required *public right-of-way* width may be reduced by 5 feet, or
  - (3) The overall minimum pavement and public right-of-way width may be reduced in accordance with the Street Design Standards of the Land Development Manual.
- (f) The minimum Zone Two width may be decreased by  $\geq 1 \frac{1}{2}$  feet for each 1 foot of increase in Zone One width over up to a maximum reduction of 30 feet of the Zone Two minimum width shown in Table 142-04H.
- (g) Zone One Requirements
  - (1) The required Zone One width shall be provided between flammable native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.
  - (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible

construction that provides a means for transmitting fire to the habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and nonhabitable gazebos that are located within brush management Zone One shall be of noncombustible construction.

- (3) Plants within Zone One shall be primarily low-growing and less than 4 feet in height with the exception of trees. Plants shall be low-fuel and fire-resistant.
- (4) Trees within Zone One shall be located away from *structures* to a minimum distance of 10 feet as measured from the *structures* to the drip line of the tree at maturity in accordance with the Landscape Standards of the Land Development Manual.
- (5) Permanent irrigation is required for all planting areas within Zone One except as follows:
  - (A) When planting areas contain only species that do not grow taller than 24 inches in height, or
  - (B) When planting areas contain only native or naturalized species that are not summer-dormant and have a maximum height at plant maturity of less than 24 inches.
- (6) Zone One irrigation overspray and runoff shall not be allowed into adjacent areas of native or naturalized vegetation.
- (7) Zone One shall be maintained on a regular basis by pruning and thinning plants, controlling weeds, and maintaining irrigation systems.

(h) Zone Two Requirements

- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, ~~flammable~~ native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
- (2) No *structures* shall be constructed in Zone Two.

- (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be ~~cut and cleared~~ reduced to a height of 6 inches. Non-native plants shall be reduced in height before native plants are reduced in height.
- (4) Within Zone Two, all plants remaining after 50 percent are ~~cut and cleared~~ reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.
- (5) The following standards shall be used where Zone Two area is ~~in~~ an area previously graded as part of legal development activity and is proposed to be planted with new plant material instead of clearing existing native or naturalized vegetation:
- (A) All new plant material for Zone Two shall be native or ~~naturalized~~ non-irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
- (B) New plants shall be low-growing with a maximum height at maturity of 2-feet 24 inches. Single specimens of fire-resistant native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of

transmitting fire from native or naturalized vegetation to habitable structures and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.

- (C) ~~All new Zone Two plantings shall be temporarily irrigated until established. Permanent irrigation is not allowed in Zone Two. Only low flow, low-gallongage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. All new Zone Two plantings shall be irrigated temporarily until established to the satisfaction of the City Manager. Permanent irrigation is not allowed in Zone Two. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation.~~ Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.

- (D) Where Zone Two is being revegetated as a requirement of Section 142.0411(a), revegetation shall comply with the spacing standards in the Land Development Manual. Fifty percent of the planting area shall be planted with material that does not grow taller than 24 inches. The remaining planting area may be planted with taller material, but this

material shall be maintained in accordance with the requirements for existing plant material in Zone Two.

- (6) Zone Two shall be maintained on a regular basis by pruning and thinning plants; and controlling weeds; and ~~maintaining any temporary irrigation system.~~
  - (7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on premises with existing structures, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.
- (i) The Fire Chief may modify the requirements of this section if the following conditions exist:
- (1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and
  - ~~(1)~~(2) The modification to the requirements ~~shall achieves~~ an equivalent level of fire protection as provided by this Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and
  - ~~(2)~~(3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.

- (j) If the Fire Chief approves a modified plan in accordance with this section as part of the City's approval of a *development permit*, the modifications shall be recorded with the approved permit conditions.
- (k) For existing *structures*, the Fire Chief may require brush management in compliance with this section for any area, independent of size, location, or condition if it is determined that an imminent fire hazard exists.
- (l) Brush management for existing *structures* shall be performed by the owner of the property that contains the flammable native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring adjacent-property.

**§143.0110 When Environmentally Sensitive Lands Regulations Apply**

This division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

- (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) *Sensitive biological resources*;
  - (2) *Steep hillsides*;
  - (3) *Coastal beaches* (including V zones);
  - (4) *Sensitive coastal bluffs*; and
  - (5) *Special Flood Hazard Areas* (except V zones).
- (b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).
  - (7) A Neighborhood Development Permit or Site Development Permit is required for all types of *development* proposals listed, in accordance with the indicated decision process. If *coastal development* is proposed in the Coastal Overlay Zone, a Coastal Development Permit is required in accordance with Section 126.0702.
  - (8) All types of *development* proposals are subject to Section 143.0140.



- (9) Any *development* proposal that proposes to encroach into more than one type of *environmentally sensitive lands* is subject to all of the development regulations sections for each type of *environmentally sensitive lands* present. The applicable decision process is the higher process number indicated.
- (10) Any *development* proposal on a site containing *environmentally sensitive lands* may be exempt from the permit requirements of this division if no *encroachment* into the *environmentally sensitive lands* is proposed and the *development* complies with Section 143.0110(c). Within the Coastal Overlay Zone, a Coastal Development Permit is required for all *coastal development* and the regulations of this division shall apply.
- (11) Limited exceptions to the applicable *development* regulations for specific types of *development* are listed in Section 143.0111.

**Table 143-01A**  
**Applicability of Environmentally Sensitive Lands Regulations**

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat <sup>(1)</sup>	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillsides	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
1. Single dwelling units on individual lots equal to or less than 15,000 square feet <sup>(2)</sup>	R	143.0141(a),(b)	143.0141	143.0142 except (a) <sup>(5)</sup>	143.0143, 143.0144	143.0145 143.0146
	P	NDP/ Process Two	NDP/ Process Two	NDP/ Process Two	SDP/ Process Three	NDP/ Process Two
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
2. Single dwelling units on lots or multiple lots totaling more than 15,000 square feet	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
3. Multiple dwelling unit and non-residential development and public works projects	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
4. Any subdivision of a premises	R	143.0141(a),(b)	143.0141	143.0142 <sup>(5)</sup>	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)	--	--	143.0130 (a), (b)	143.0130 (c)
5. Project-specific land use plans	R	143.0141(a),(b), 143.0115	143.0141, 143.0115	143.0142, 143.0115	143.0143, 143.0144, 143.0115	143.0115, 143.0145 143.0146
	P	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat <sup>(1)</sup>	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillides	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
6. Any development that proposes deviations from any portion of the Environmentally Sensitive Lands Regulations	R	143.0141(a),(b), 143.0150	143.0141, 143.0150	143.0142, 143.0150 <sup>(4)</sup>	143.0143, 143.0144, 143.0150	143.0145, 143.0146, 143.0150
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)-	--	--	143.0130(a), (b)	143.0130(c)
7. Development other than single dwelling units on individual lots, that proposes alternative compliance for development area in steep hillsides.	R	--	--	143.0142 except (a), 143.0151	--	--
	P	--	--	SDP/ Process Three	--	--
	U	--	--	--	--	--

Legend to Table 143-01A	
R	Development regulation sections (in addition to Section 143.0140) applicable to the <i>environmentally sensitive lands</i> present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)
U	Regulations that identify permitted uses when they are different than the applicable zone due to the <i>environmentally sensitive lands</i> present.

Footnotes to Table 143-01A

- 1 This includes listed species and their habitat not covered by the Take Authorizations issued to the City by the State and Federal governments under the Multiple Species Conservation Program.
- 2 This includes the *development* of one or more *lots* as long as the total area of the *lots* does not exceed 15,000 feet and the *lots* were not joined in ownership to any contiguous *lot* or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.
- 3 Outside the Coastal Overlay Zone, *subdivision* of a *premises* less than 15,000 square feet (for *single dwelling unit development*) is not subject to Section 143.0142(a).
- 4 *Development* other than a *single dwelling unit* on an individual *lot* may use alternative compliance for development area in *steep hillsides* that does not comply with Section 143.0142(a).
- 5 Within the Coastal Overlay Zone, *single dwelling units* on individual *lots* equal to or less than 15,000 square feet are subject to Section 143.0142(a).

- (c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:
- (1) Outside the Coastal Overlay Zone, *development* on a *premises* containing *environmentally sensitive lands* when the development will not encroach into the *environmentally sensitive lands* during or after construction, if the property owner signs an acknowledgment that further *development* on the property is not permitted unless the *development* is reviewed and approved pursuant to this division and if the development proposal provides for the following:
    - (A) A 100-foot *setback* from sensitive *biological resources*;
    - (B) A 40-foot *setback* from the top of slope of *steep hillsides*;
    - (C) A 100-foot *setback* from *floodplains*.
  - (2) *Development* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or accessory *structure* and will not encroach into the *environmentally sensitive lands* during or after construction. For a *premises* containing a *sensitive coastal bluff*, any addition shall observe a minimum 40-foot *setback* from the *coastal bluff edge*.
  - (3) Outside the Coastal Overlay Zone, minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:
    - (A) *Clearing and grubbing* shall not exceed 100 square feet per acre.
    - (B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.
    - (C) The proposed improvements do not *encroach* into *sensitive biological resources*.
    - (D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.
    - (E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any *point*.
  - (4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.

- (5) Outside the Coastal Overlay Zone, city public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.
- (6) Outside the Coastal Overlay Zone, restoration projects where the sole purpose is enhancement or restoration of native habitats.
- (7) Except for brush management in wetlands in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

**DRAFT**  
**TABLE 1**

**VEGETATION COMMUNITY ACRES CONSERVED IN CITY OF SAN DIEGO AREAS;  
CORNERSTONE LANDS, AND SAN PASQUAL VALLEY**

Vegetation Community	Southern Area	Eastern Area	Urban Area	Northern Area	Hodges/San Pasqual	San Vicente	Maroon Valley	TOTAL	Modified Goal - 2005 <sup>1</sup>	REVISIED TOTAL	Coastal Zone <sup>2</sup>	Conserved to date in CZ	Conserved in MHPA to date	Conserved in MHPA to date in CZ
Beach	1	0	55	80	0	0	0	115	0.4	115	0.4	85.7	85.1	85.7
Sailgum	127	0	9	0	0	0	0	136	0	136	0	139.9	139.8	139.8
Southern Forests	0	0	9	0	0	0	0	9	0	9	0	9.9	9.9	9.9
Southern Coastal Bluff Scrub	0	0	9	126	0	0	0	135	1.7	137	1.7	142.7	141.7	142.8
Coastal Sage Scrub	1267	3759	2901	3739	3443	1228	940	16851	309	19260	27.7	11771.3	1184.1	11420.1
Maritime Succulent Scrub	238	0	78	387	0	0	0	684	13.3	684	6.8	763.2	768.7	402.8
Chaparral	0	1449	720	4225	2474	153	1159	10424	149.5	10574	22.6	7814.0	594.6	596.9
Southern Maritime Chaparral	0	0	20	1082	0	0	0	1102	26	1128	12.5	977.3	555.1	547.1
Coastal Sage/Chaparral	0	11	65	9	0	6	3	95	2.5	98	0	295.3	0.1	284.1
Grassland	201	819	951	2849	176	121	23	4942	72.2	5014	11.4	3550.5	850.5	629.7
Southern Coastal Salt Marsh	237	0	120	578	0	0	0	836	0	836	0	789.2	788.7	788.7
Freshwater Marsh	10	2	5	94	69	52	1	232	0	232	0	76.3	41.5	75.8
Riparian Forest	82	76	73	152	137	38	1	77	814	0	425.3	104.5	423.6	104.5
Oak Riparian Forest	0	41	93	22	172	0	36	105	469	0	313.8	0.0	310.5	0.0
Riparian Woodland	0	24	291	283	0	0	0	587	0	587	0	511.7	510.4	513
Riparian Scrub	1172	197	424	421	380	23	15	108	2749	0	2749	0	1920.6	1794.4
Oak Woodland	1	25	48	48	128	0	51	29	329	3.3	332	178.4	2.2	178.0
Torrey Pine Forest	0	0	0	144	0	0	0	144	1.3	145	1.4	144.5	144.5	144.5
Ticaste Cypress	0	0	0	0	0	0	0	0	2	2	0	0.0	0.0	0.0
Eucalyptus Woodland	2	0	41	118	4	6	0	170	13.3	183	13.8 <sup>3</sup>	132.6	10.1	123.5
Open Water	689	35	322	222	823	929	787	3859	0	3859	0	522.7	144.8	144.8
Disturbed Wetlands	110	3	11	80	218	2	148	563	0	563	0	134.5	121.3	121.3
Natural Flood Channel	4	24	9	1	228	3	23	295	0	295	0	42.3	2.1	42.3
Shallow Bays	81	0	134	0	0	0	0	225	0	225	0	268.4	268.0	268.0
Other habitats <sup>4</sup>	104	0	47	1	4	0	0	157	87.5	245	35.1	884.3	976.0	332.4
Marine Subtidal	584	6453	6346	14477	8076	2552	3266	2278	47762	680	48442	1056	3703.8	3076.2
Disturbed <sup>5</sup>	86	227	155	436	505	56	21	100	2447	28.8	2476	3.1	1837.3	1684.0
Agriculture	745	0	0	582	375	1	0	1903	5.9	1809	1.0	1394.0	1172.1	1094.8
<b>TOTAL</b>	<b>5815</b>	<b>6690</b>	<b>6801</b>	<b>15597</b>	<b>9036</b>	<b>2609</b>	<b>3287</b>	<b>52012</b>	<b>715</b>	<b>52727</b>	<b>113.6</b>	<b>34935.1</b>	<b>9074.9</b>	<b>8894.8</b>


Note: Numbers may not sum to total as shown, due to rounding. Average figures do not reflect exclusions of areas from the MHPA (see Section 1.2.6). The above acreages reflect the estimated conservation of the vegetation community. The acreages are approximate and do not reflect minor MHPA boundary modifications made during the public hearing process.

1. Conservation lands within City of San Diego jurisdiction.  
2. The acreage figures are approximate and do not reflect minor MHPA boundary modifications made during the public hearing process.  
3. Sept. 6, 2005, City Council Resolution (R-300758) increased the MSCP conservation goal by 715 acres in conjunction with modifications to the City's trust management regulations.  
4. Portion of the increased conservation goal, 2005 that is located within the coastal zone.  
5. Individual Torrey pines would be pruned not removed.

**EXHIBIT NO. 3**

**Expected Impacts to Various Habitats Citywide and in the Coastal Zone**

**San Diego LCPA #3-05B/  
Brush Management Regs.**

 California Coastal Commission



3308  
Dup.

(R-2006-166)  
(COR.COPY)

RECEIVED

RESOLUTION NUMBER R- 300799

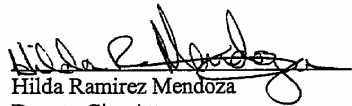
ADOPTED ON SEP 06 2005

WHEREAS, the expansion of Zone Two brush management, pursuant to the amendments of the Land Development Code by Ordinance Number O - 19413, into the Multi-Habitat Planning Area [MHPA] covers approximately 715 acres of public and private lands adjacent to existing development; and


WHEREAS, to further reduce the impacts to the MHPA from the expansion of the brush management zones, the California Department of Fish and Game and the United States Fish and Wildlife Service have requested that the conservation target identified in the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan be increased; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager or his representative is authorized to take the necessary actions to increase the conservation target of land under the City's MSCP Subarea Plan by 715 acres.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Hilda Ramirez Mendoza  
Deputy City Attorney

HRM:cfq  
08/23/05  
09/01/05 COR.COPY  
Or.Dept:Fire Rescue  
R-2006-166  
MMS#395

EXHIBIT NO. 4
Authorization for Increase in MHPA Conservation Goal
San Diego LCPA #3-05B/ Brush Management Regs.
 California Coastal Commission

Passed and adopted by the Council of The City of San Diego on SEP 06 2005,  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 2 - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 8 - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor - Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

TONI ATKINS  
Deputy Mayor of The City of San Diego, California.

(Seal)

LIZ MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy.

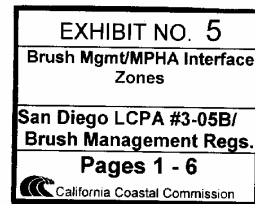
Office of the City Clerk, San Diego, California

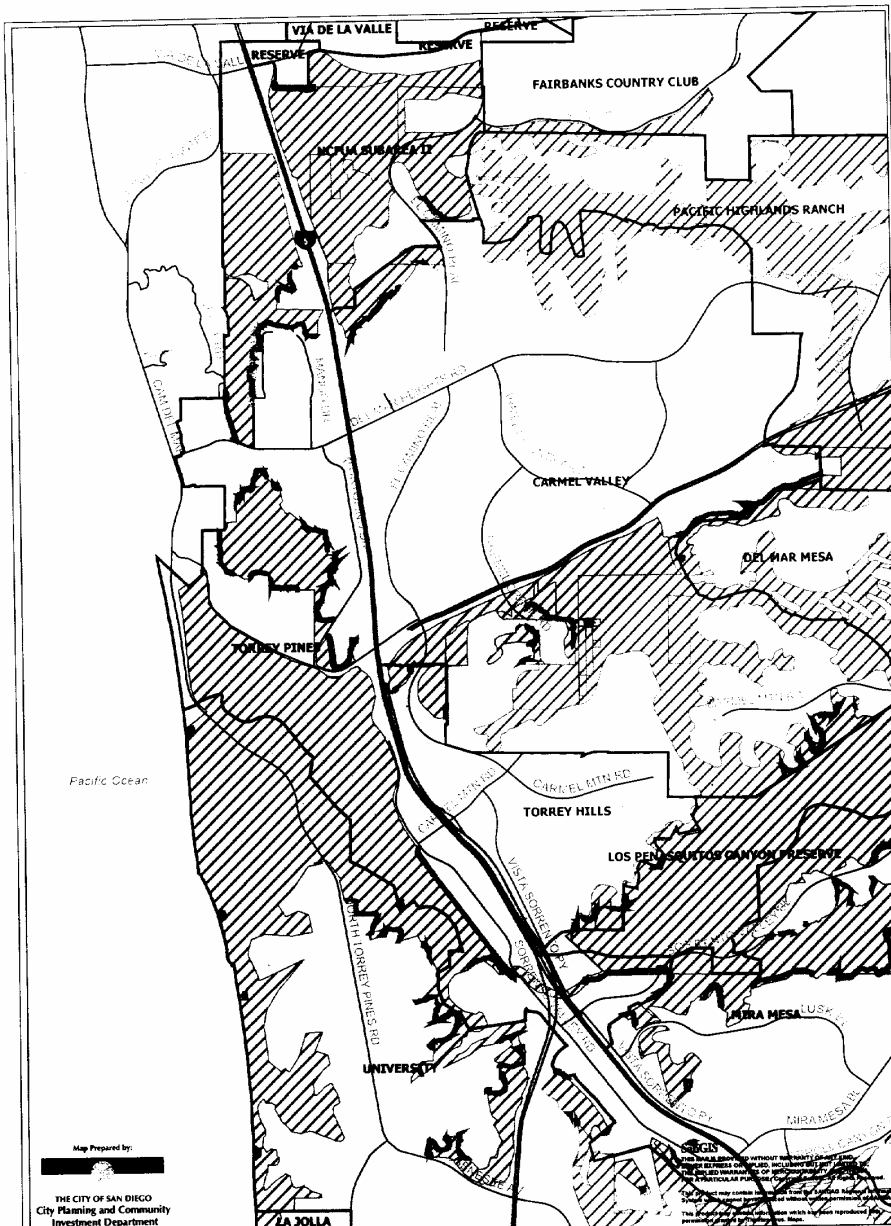
Resolution Number R- 300799 Adopted SEP 06 2005



## **BRUSH MGMT/MPHA INTERFACE ZONES**






- The following six maps are arranged from North to South and identify the areas within the coastal overlay of the City of San Diego where proposed brush management zones will impact Multiple Habitat Planning Area (MPHA) lands.
- Blue Area = Coastal Overlay Zone
- Red Lines = Interface where MHPA lands will be affected

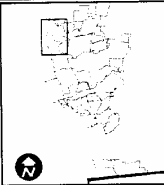




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 City Planning and Community  
 Investment Department

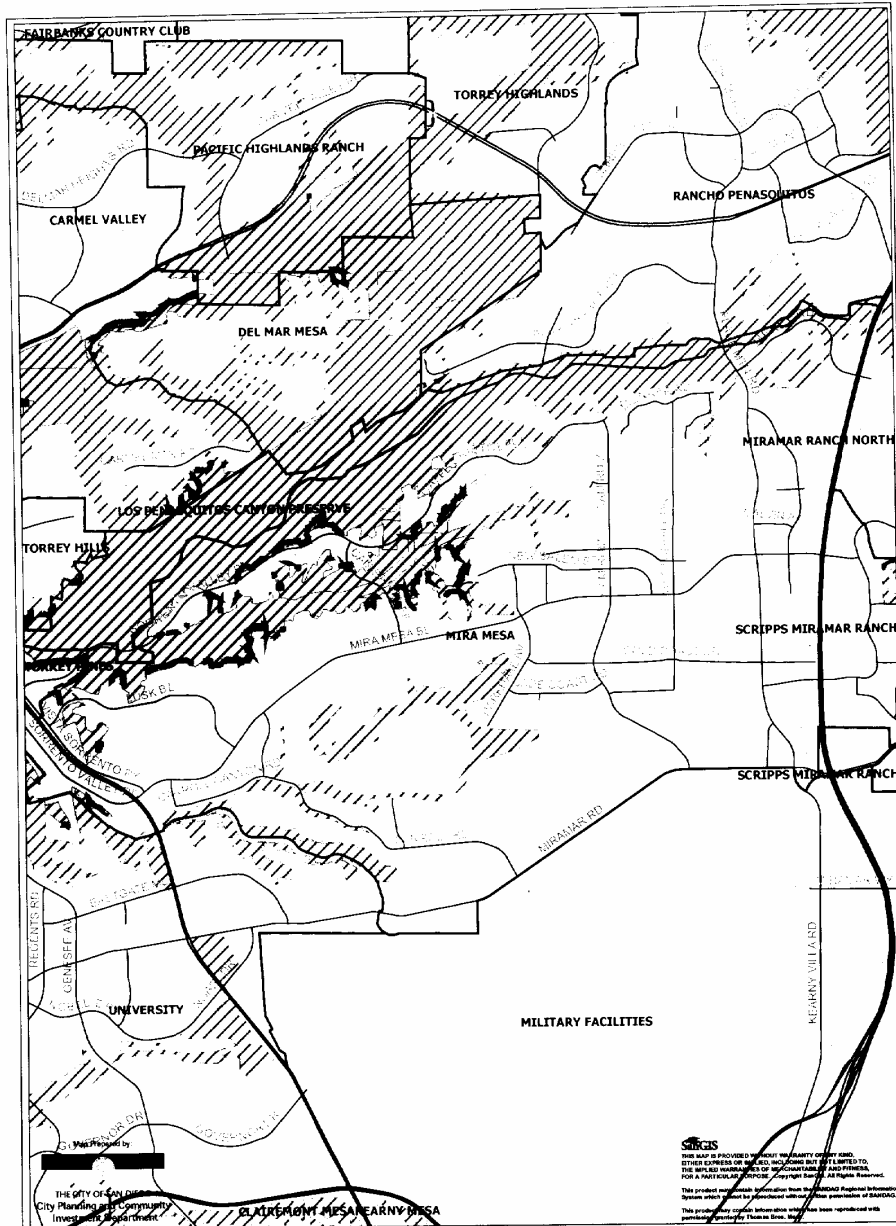
**Map Features**

-  Brush Management Interface\*
-  Coastal Overlay Zone
-  Community Planning Areas
-  Major Roads
-  Multi-Habitat Planning Area (MHPA)

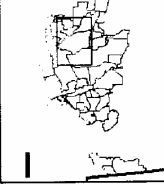


**TORREY PINES**  
 Brush Management Interface\*  
 as of October 10, 2006

\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).

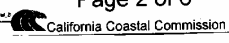


- Map Features**
- Brush Management Interface\*
  - Coastal Overlay Zone
  - Community Planning Areas
  - Major Roads
  - Multi-Habitat Planning Area (MHPA)



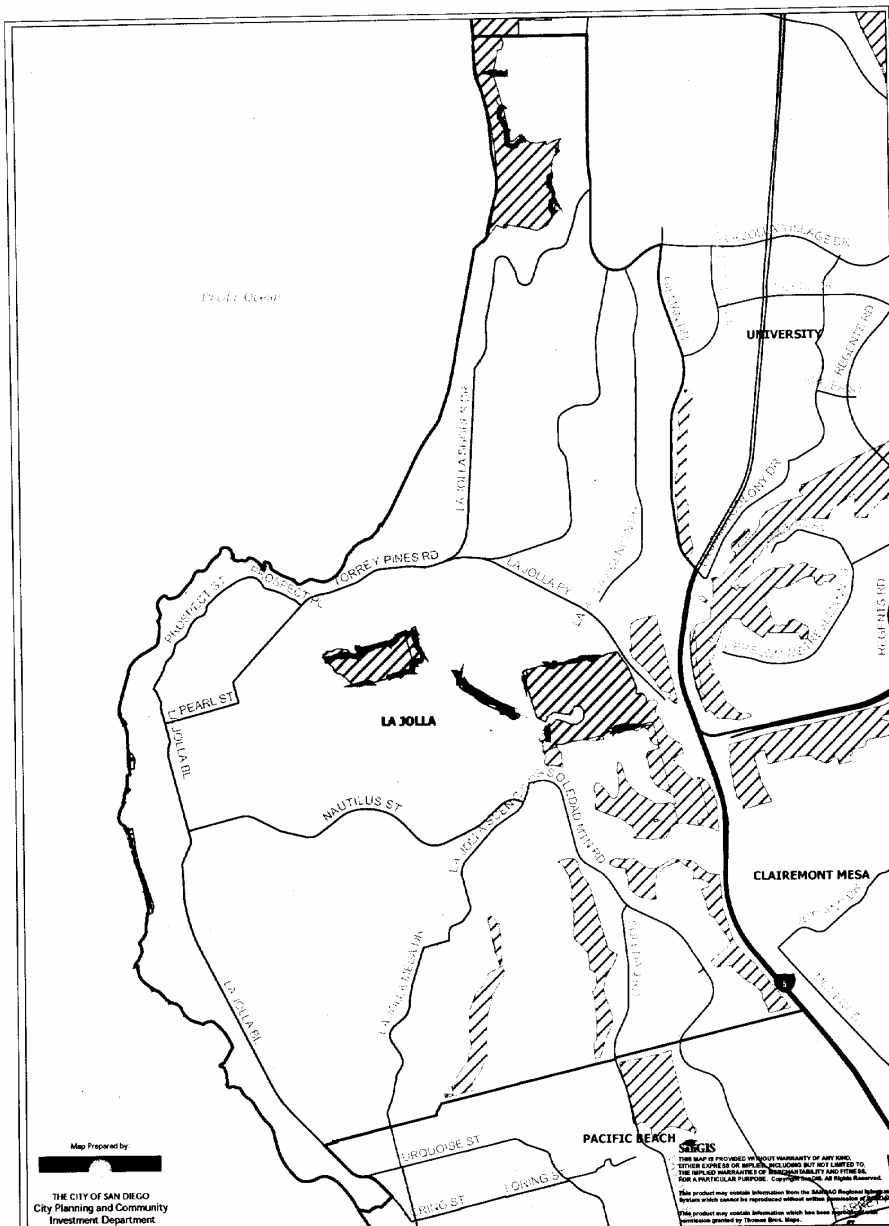
**MIRA MESA**  
Brush Management Interface\*  
as of October 10, 2006

\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).



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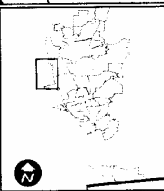
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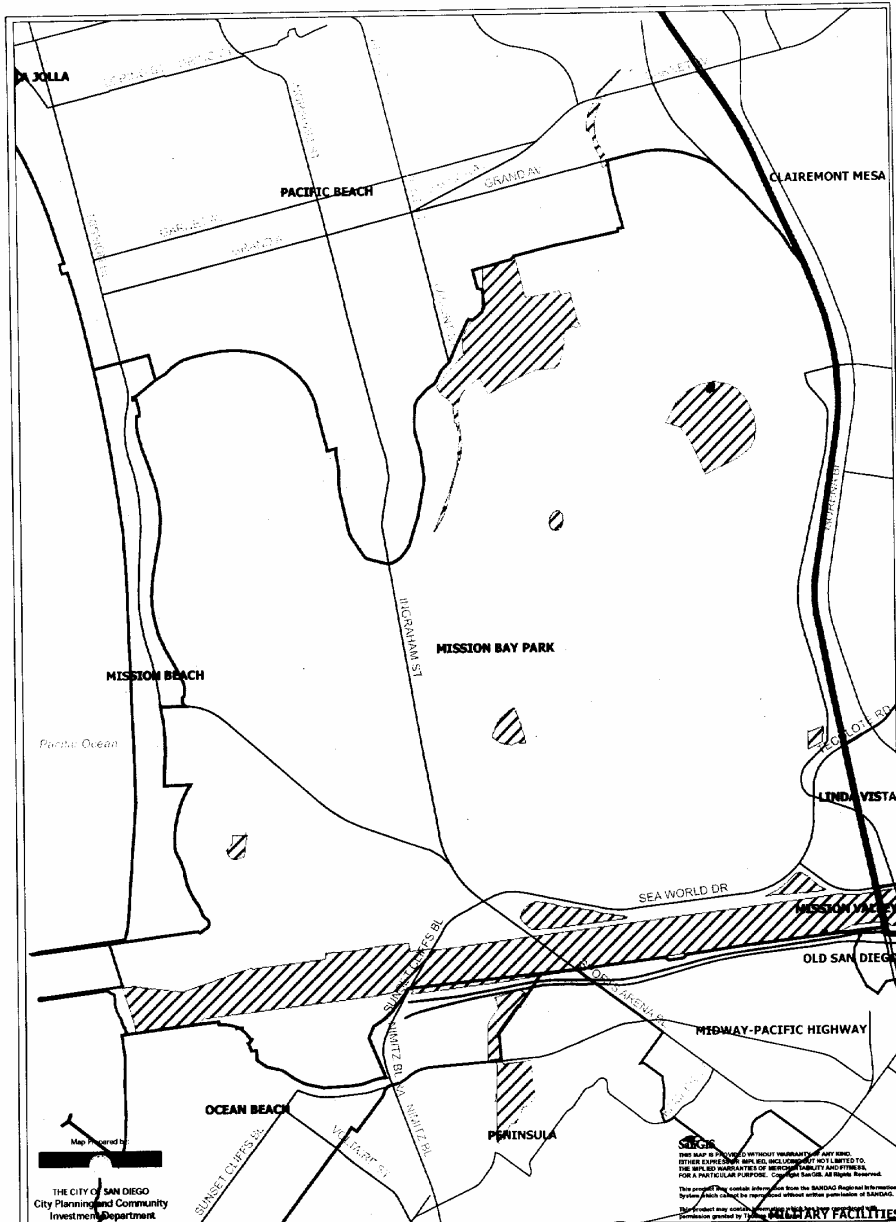
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- Map Features**
- Brush Management Interface\*
  - Coastal Overlay Zone
  - Community Planning Areas
  - Major Roads
  - Multi-Habitat Planning Area (MHPA)



**LA JOLLA**  
 Brush Management Interface\*  
 as of October 10, 2006

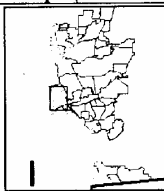
\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).



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 City Planning and Community  
 Investment Department

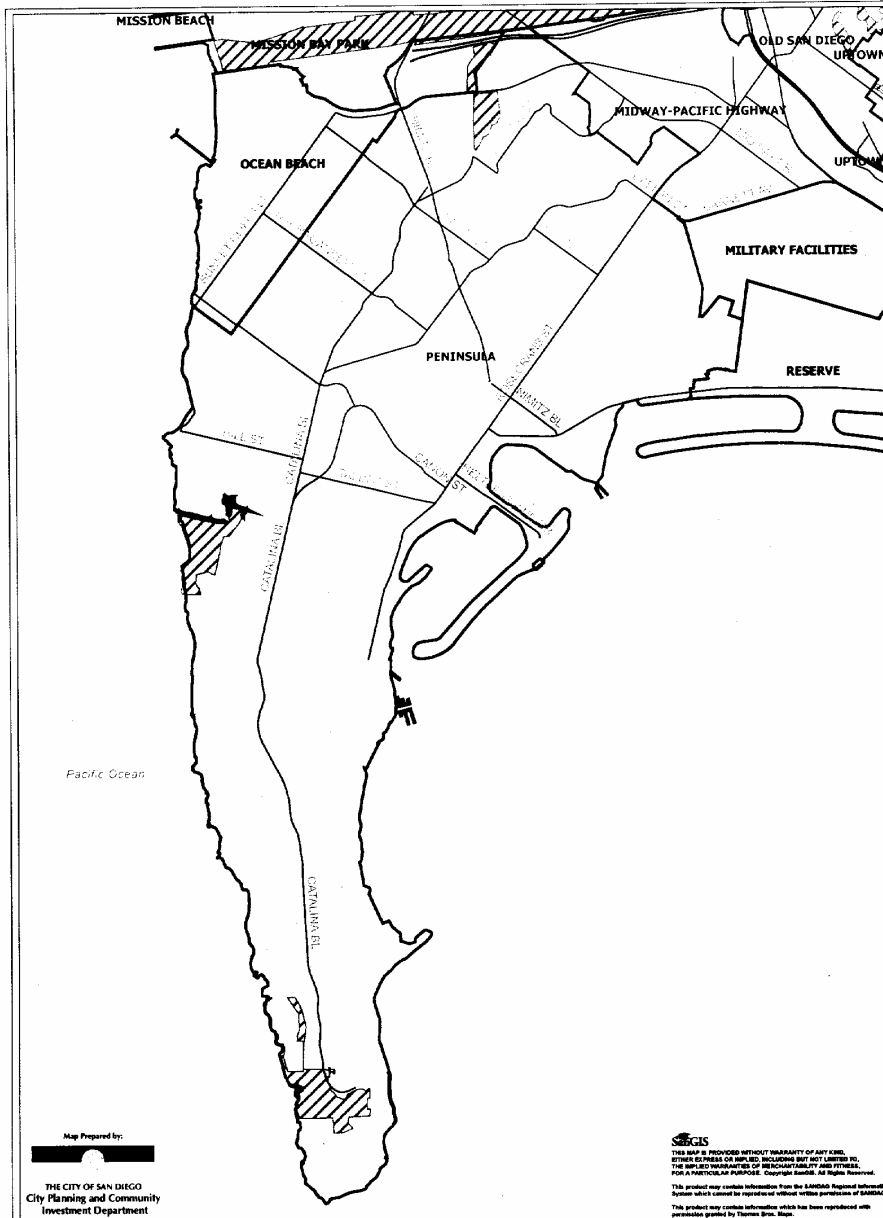
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- Map Features**
- Brush Management Interface\*
  - Coastal Overlay Zone
  - Community Planning Areas
  - Major Roads
  - Multi-Habitat Planning Area (MHPA)



**MISSION BAY PARK**  
 Brush Management Interface\*  
 as of October 10, 2006

\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).



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City Planning and Community  
Investment Department

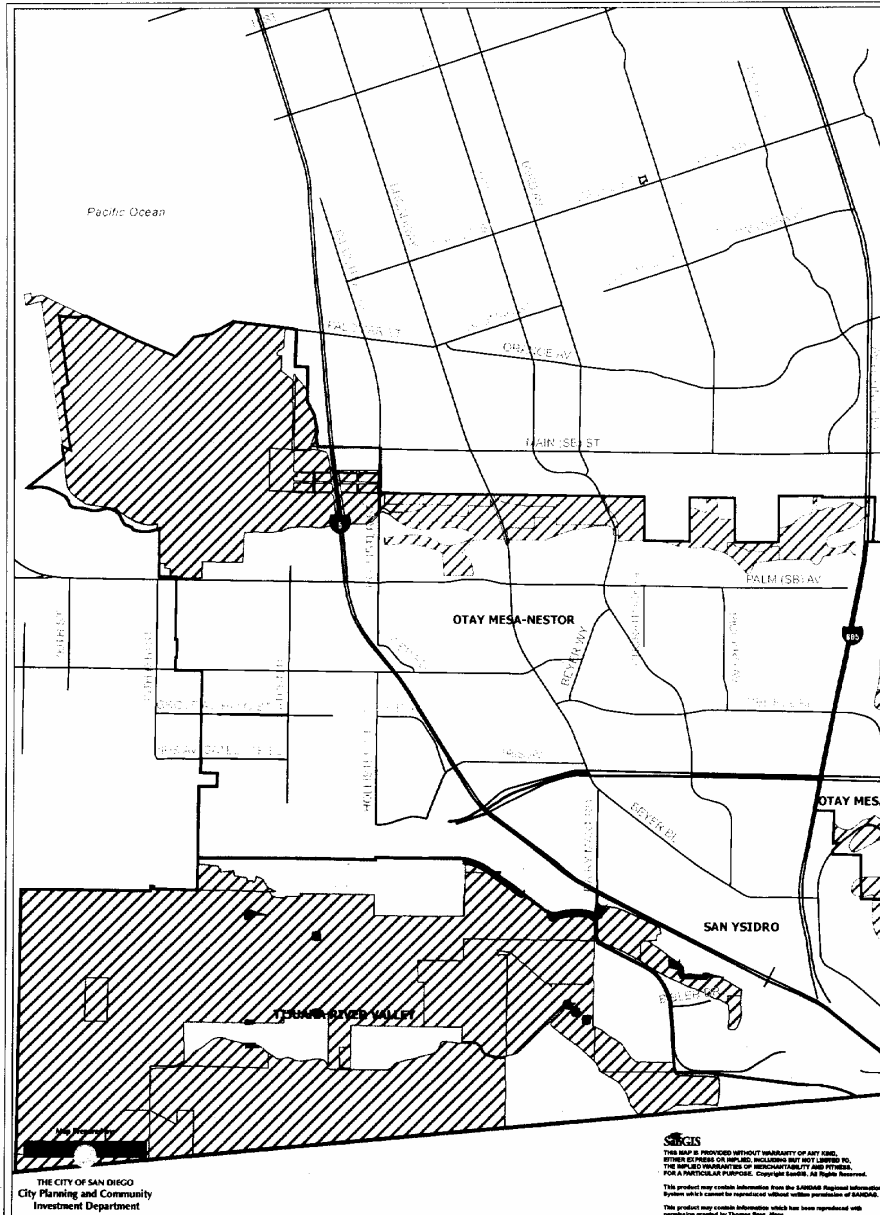
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




- Map Features**
- Brush Management Interface\*
  - Coastal Overlay Zone
  - Community Planning Areas
  - Major Roads
  - Multi-Habitat Planning Area (MHPA)

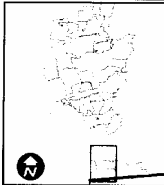


**PENINSULA**  
Brush Management Interface\*  
as of October 10, 2006

\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).



- Map Features**
-  Brush Management Interface\*
  -  Coastal Overlay Zone
  -  Community Planning Areas
  -  Major Roads
  -  Multi-Habitat Planning Area (MHPA)



**OTAY MESA-NESTOR**  
Brush Management Interface\*  
as of October 10, 2006

\* The Brush Management Interface represents areas where the proposed Brush Management Zone II would be greater than the existing Brush Management Zone II. This map shows only those areas located within the Coastal Zone AND within the City of San Diego Multi-Habitat Planning Area (MHPA).

