

**CALIFORNIA COASTAL COMMISSION**

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 original staff report

**Th16c****Addendum**

January 11, 2016

To: Commissioners and Interested Persons

From: California Coastal Commission  
 San Diego Staff

Subject: Addendum to **Item Th16c**, City of San Diego Major LCP Amendment No. **LCP-6-SAN-15-0017-2 (Small Lot Subdivision/9<sup>th</sup> Update to the Land Development Code)**, for the Commission Meeting of Thursday, January 14, 2016

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Staff recommends the following changes be made to the above-referenced staff report, dated December 17, 2015. Deletions shall be marked by a ~~striketrough~~ and additions shall be underlined. Deletions to suggested modifications shall be marked by a bold ~~striketrough~~, and addition to suggested modification shall be marked by a double underline.

1. On Page 1 of the staff report, the second full paragraph shall be revised as follows:

**SUMMARY OF AMENDMENT REQUEST**

The subject amendment request consists of ~~two~~ three distinct parts: an update to the small lot subdivision regulations to allow for the subdivision of multi-family zoned land, consistent with the density of the LCP/community plan, for the construction of single family residences, ~~and~~ the majority of the 9<sup>th</sup> Update revisions to the LDC, containing approximately 57 separate changes divided into the categories of Permit Process, Use, Measurement, Parking, Signs, and Minor Corrections, and a third ordinance related to the Update that addresses previously conforming development. The City periodically reviews the LDC and proposes corrections, modifications, clarifications, etc. to make the document easier to understand and enforce. The small lot subdivision regulations were approved by the San Diego City Council under one action, and the 9<sup>th</sup> Update was approved by the San Diego City Council in two separate actions, one action approving the regulations governing previously conforming development and the other action approving the balance of the 9<sup>th</sup> Update.

2. On Page 2 of the staff report, the final paragraph shall be revised as follows:

While many improvements to existing structures, previously conforming or not, trigger the need for a CDP under the certified LCP, that in and of itself is not always sufficient to meet the intent of the certified LCPs. There are certain levels of improvements to a structure even along the shoreline that do not trigger the need for a CDP (such as small additions), that could still increase the degree of non-conformity by extending or renewing the life of a previously conforming structure, such as a portion of a residence within a bluff top setback. Furthermore, while additions and alterations to an existing structure are assessed on a cumulative basis to determine whether or not a coastal development permit is required, they are not currently tracked on a cumulative basis to establish a threshold for when non-conforming rights should be considered for abatement. Thus, while an individual project may fall under the threshold for requiring that the entire structure be brought into conformance with current standards, over time separate alterations may be utilized to thwart the intent of the threshold and construct an essentially new structure in piecemeal fashion. This can perpetuate existing lines of development along shoreline properties, where the risk from sea level rise, and thus the potential for future shoreline protective devices, is greatest. The Commission recognizes that the City's proposed amendment is directed at encouraging development in its large inventory of previously conforming properties city-wide, and thus the Commission is not concerned about them in large part. While the City's proposal aims to make the regulation of previously conforming development more predictable and enforceable, the clarified provisions as proposed by the City would allow continued redevelopment and expansion in potentially hazardous locations. For the properties immediately adjacent to the shoreline and bays, the patterns and recycling of development must be addressed in a manner that permits reasonable use while still recognizing the changing nature of the coastline and the hazards therein. Protective measures including, but not limited to, recordation of waivers of shoreline protection, abating non-conformities, and siting new development away from coastal bluffs and beaches could be missed in some of the potential improvements to previously conforming structures along the coastline. Recognizing that it is these properties along the coastline that are under the greatest risk from coastal hazards and where concerns for public access and views are greatest, the suggested modifications put forward language requiring that improvements to structures on such properties do not increase the level of non-conformity and focuses this stricter language on these oceanfront or bayfront properties within the coastal zone.

3. On Pages 5-6 of the staff report, delete the current motions and substitute the following resolutions and motions:

## **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 City of San Diego LCP Amendment No. LCP-SAN-15-0017-2/ Small Lot Subdivision (O-20483) and 9<sup>th</sup> Update (O-20481) for the City of San Diego certified LCP, as submitted.*

**STAFF RECOMMENDATION OF REJECTION AS SUBMITTED:**

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO DENY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment (Small Lot Subdivision and 9<sup>th</sup> Update) for the City of San Diego LCP, as submitted, and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified City of San Diego LCP, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program, as amended.

- II. **MOTION II:** *I move that the Commission reject the City of San Diego LCP Amendment No. LCP-6-SAN-15-0017-2/ 9<sup>th</sup> Update Previously Conforming regulations (O-20482) for the City of San Diego certified LCP, as submitted.*

**STAFF RECOMMENDATION OF REJECTION AS SUBMITTED:**

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

**RESOLUTION TO DENY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the 9<sup>th</sup> Update Previously Conforming regulations as submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program amendment

as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan(s). Certification of the Implementation Program amendment 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 amendment as submitted.

**III. MOTION III: *I move that the Commission certify the City of San Diego LCP Amendment No. LCP-6-SAN-15-0017-2/9<sup>th</sup> Update Previously Conforming regulations (O-20482) for the City of San Diego if it is modified as suggested in this staff report.***

**STAFF RECOMMENDATION OF CERTIFICATION AS MODIFIED:**

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 9<sup>th</sup> Update Previously Conforming regulations 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 carry out the certified Land Use Plan(s). Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

4. Beginning on Page 6 of the staff report, Suggested Modification No.1, relating to Section 127.0104: Maintenance, Repair, Alteration, or Replacement of Previously Conforming Structures, shall be revised as follows:

**§127.0104 Maintenance, Repair, Alteration, or Replacement of Previously Conforming Structures**

(a) Maintenance, repair, alteration, or replacement of a structure with a previously conforming structural envelope is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit pursuant to Section 126.0704(b).

(b) Maintenance, repair, alteration, or replacement of a structure with a previously conforming structural envelope for proposed development that requires a Coastal Development Permit pursuant to Section 126.0704(b) requires a Neighborhood Development Permit decided in accordance with Process Two.

(c) Maintenance, repair, alteration, or replacement of a dwelling unit or multiple dwelling unit structure, that makes the premises previously conforming for density, is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit.

(d) Maintenance, repair, alteration, or replacement of a non-residential structure containing a previously conforming use is permitted in accordance with Process One if the proposed development would retain 50 percent or more of the exterior walls of the previously conforming structure. If the proposed development would retain less than 50 percent of the exterior walls of the previously conforming structure, the proposed development requires a Neighborhood Development Permit decided in accordance with Process Two. The calculation of exterior walls shall be measured in accordance with Section 127.0111.

(e) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or coastal bluff edge within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls ~~major structural components~~, which shall be measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

5. Beginning on Page 7 of the staff report, Suggested Modification No. 2, relating to Section 127.0105: Reconstruction Following Fire, Natural Disaster, or Act of the Public Enemy, shall be revised as follows:

**§127.0105 Reconstruction Following Fire, Natural Disaster, or Act of the Public Enemy**

- (a) The reconstruction provisions of Section 127.0105 apply only to the reconstruction of a previously conforming structure destroyed, in whole or in part, as a result of fire, natural disaster, or act of the public enemy, that met one or more of the following conditions prior to the event that caused the destruction:

- (1) The structure had a previously conforming structural envelope;

(2) The structure was a dwelling unit, or a structure that included a dwelling unit or dwelling units, that made the premises previously conforming for density; or

(3) The structure contained a previously conforming use.

(b) Reconstruction of any previously conforming structure described in Section 127.0105(a) is permitted in accordance with Process One as follows:

(1) Reconstruction of a non-residential structure containing a previously conforming use and resumption of the use where less than 50 percent of the structure's exterior walls were destroyed; or

(2) Reconstruction of a structure with a previously conforming structural envelope or a structure that makes the premises previously conforming for density where:

(A) The new structure would neither exceed the gross floor area nor the structure height of the destroyed structure by more than 10 percent; and

(B) The new structure would be located in substantially the same location as the destroyed structure or in a location that would reduce the non-conformity regarding structural envelope or density.

However, reconstruction of previously conforming density shall not exceed the number of dwelling units that existed prior to the event that caused the destruction.

(c) Reconstruction of any previously conforming structure described in Section 127.0105(a) requires a Neighborhood Development Permit if decided in accordance with Process Two if the proposed development does not meet the criteria for Process One approval in Section 127.0105(b).

(d) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or coastal bluff edge within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls ~~major structural components~~, which shall be measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

(1) Such reconstruction is subject to Coastal Development Permit regulations and other regulations applicable to conforming development.

(2) The calculation of exterior walls shall be measured in accordance with Section 127.0111.

~~(1) Such reconstruction is subject to Coastal Development Permit regulations and other regulations applicable to conforming development.~~

~~(2) The calculation of exterior walls shall be measured in accordance with Section 127.0111.~~

(e) Section 127.0105 does not provide an exemption from any requirement to obtain applicable construction permits or development permits.

6. Beginning on Page 8 of the staff report, Suggested Modification No. 3, relating to Section 127.0106: Expansion or Enlargement of Previously Conforming Structures or Structures on a Premises with Previously Conforming Density, shall be revised as follows:

**§127.0106 Expansion or Enlargement of Previously Conforming Structures or of Structures on a Premises with Previously Conforming Density**

(a) Proposed expansion or enlargement of a structure with a previously conforming structural envelope or of a structure on a premises with previously conforming density is permitted in accordance with Process One as follows, except that such development on a premises that contains or abuts a coastal beach or a coastal bluff edge is subject to Section 127.0106(c):

(1) Where all new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and does not increase the non-conformity regarding structural envelope or density;

(2) Where the proposed expansion or enlargement is necessary to incorporate required public exits or fire walls to meet public safety requirements of the California Building Code or California Fire Code for a conforming use in a previously conforming multiple dwelling unit or non-residential structure as long as the need is not one created by the proposed expansion or enlargement.

(b) Proposed expansion or enlargement of a previously conforming structural envelope within a setback, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit decided in accordance with Process Two, which shall only be granted if the proposed expansion or enlargement meets all of the following criteria:

(1) Conforms to the setback observed by the existing structure;

(2) Complies with the floor area ratio and maximum structure height of the underlying base zone;

(3) Does not encroach into a front yard or extend outside of the developable area of the underlying base zone to within 10 feet of the front yard setback line, unless the proposed expansion or enlargement would reduce the non-conformity of existing development ~~on a coastal bluff~~;

(4) Does not encroach more than 15 feet into any required side or rear yard;

(5) Does not result in a total structure length within the required yard that is greater than 50 percent of the length of the adjacent property line;

(6) Does not create any new habitable space within 3 feet of the property line;

(7) Is limited to additions at the first story level (as measured in accordance with Section 113.0261) and does not exceed the height of the existing structure within the setback;

(8) Does not result in more dwelling units than the underlying base zone allows; and

(9) Does not propose development on a premises that contains or abuts a coastal beach or coastal bluff edge ~~within a required coastal bluff setback~~.

(c) For structures located on a premises that contains or abuts a coastal beach or a coastal bluff edge, new additions and improvements to existing structures, may be permitted subject

to a Coastal Development Permit, provided that all such new additions or improvements themselves do not increase the degree of non-conformity and comply with the following:

- (1) The proposed coastal development is in conformity with the certified Local Coastal Program land use plan;
- (2) The proposed coastal development does not alter more than 50 percent of the exterior walls **major structural components** of the structure as measured in accordance with Section 127.0111;
- (3) The proposed expansion shall not exceed 500 square feet, except additional floor area may be permitted in exchange for the removal or relocation of an equivalent amount of existing floor area (from the primary structure or an accessory structure) from within a required bluff or side yard setback to a location at least 40 feet from the coastal bluff edge. **The proposed coastal development does not constitute an increase in gross floor area greater than 50 percent of the existing gross floor area of the existing structure on a cumulative basis;**
- (4) The proposed development does not include development of a basement with building area 5 feet or more below grade or the use of caisson foundations;
- (5) The proposed expansion does not constitute demolition, renovation, or replacement of less than 50% of exterior walls where the proposed alteration would result in cumulative alterations exceeding 50% or more of exterior walls, taking into consideration previous alterations approved on or after the date of certification of the LCPA; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LCPA. **The proposed coastal development does not constitute an increase in gross floor area greater than 50 percent of the existing gross floor area of the existing structure on a cumulative basis;**
- (6) The proposed coastal development does not rely on existing shoreline protection; and

(7) The applicant agrees to execute and record a waiver of future shoreline protection.

(d) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or a coastal bluff edge within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls major structural components as measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

(e) Proposed expansion or enlargement or a change in use of a previously conforming large retail establishment is subject to a Process One Construction Permit and the applicable supplemental regulations in Section 143.0355(e) except as described below. Proposed expansion or enlargement or a change in use of a large retail establishment that would result in a structure that is 100,000 or greater square feet of gross floor area and an increase in average daily trips is subject to a Site Development Permit in accordance with Section 126.0502.

7. Beginning on Page 11 of the staff report, Suggested Modification No. 4, relating to Section 127.0111: Rules for Calculations and Measurements of Exterior Walls, shall be revised as follows:

**§127.0111 Rules for Calculations and Measurement of Exterior Walls**

(a) For the purposes of this Division, an exterior wall shall be considered removed if the building Official determines that the structural integrity of that wall the structure that wall has been lost.

~~(1) All previously conforming rights shall terminate when proposed development constitutes redevelopment, defined as: additions to an existing structure, exterior and/or interior renovations, and/or demolition of an existing structure or portions thereof which results in:~~

- i. ~~Alteration of 50% or more of major structural components including: exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LCPA.~~

ii. Alteration of an exterior wall includes, but is not limited to, when an exterior wall is made an interior wall, an existing door or window is in-filled or replaced with a new door or window of different size or location, the existing support structure is altered, or the existing support structure is detached from the base plates.

(2) Demolition, renovation, or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LCPA; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LCPA.

(b) The applicant shall provide sufficient information to demonstrate the extent of the proposed wall removal, or in the case of a structure destroyed by fire, natural disaster, or act of the public enemy, the extent of wall destruction, including, but not limited to:

- (1) A site plan of the structure showing all existing exterior walls (and those that were destroyed in accordance with Section 127.0105, if applicable) identified and dimensioned in linear feet;
- (2) A demolition plan with dimensions specified in linear feet for any existing exterior walls proposed to be demolished or removed and replaced in accordance with Section 127.0111(a)(1) or showing the exterior walls that were destroyed in accordance with Section 127.0105, if applicable; and
- (3) Structural calculations and details regarding all walls within the structure proposed to be modified or reconstructed.

(c) The length of the exterior walls shall be measured in linear feet. In the Coastal Overlay Zone, alteration of an exterior wall includes, but is not limited to, when an exterior wall is made an interior wall, an existing door or window is in-filled or replaced with a new door or window of different size of location, the existing support structure is altered, or the existing support structure is detached from the base plates.

8. Beginning on Page 17 and continuing on to Page 18 of the staff report, the final paragraph shall be revised as follows:

As mentioned earlier, one of the purposes of previously conforming regulations is to identify the thresholds beyond which a structure is no longer considered an existing structure, but instead constitutes new development, for which previously conforming rights are terminated. The City's proposed Section 127.0111 attempts to clarify how calculation of demolition of exterior walls – a factor used in determining if an improvement will create a new structure – will be carried out. However, the certified LUPs of the City of San Diego, such as the La Jolla Land Use Plan and the recently certified Ocean Beach Land Use Plan, recognize that the thresholds for determining when an existing structure has been modified to such an extent that its nonconforming elements should be abated can be calculated by more than just the exterior walls. For example, modification and renovation of interior walls, remodeling, foundation work, roofing components, etc. can all factor into the extent of work performed on an existing residence of structure that can substantially affect its economic life. Such work can result in replacement of more than 50 percent of the existing structure or additions that cumulatively increase the internal floor area by more than 50%. ~~However~~ Furthermore, recent Commission action in other LCPs, including nearby Solana Beach, has demonstrated that when determining whether a home is being slightly improved or completely redeveloped, the analysis should look at changes to “major structural components,” such as foundation, roof structure, and floor area, in addition to exterior walls. The City's proposal lacks these elements, and thus future analysis of improvement projects to previously conforming structures may fail to properly analyze the true extent of change to the existing structure and how much is truly being retained. Under the current certified LCP, the City is already required to track the cumulative changes to a structure over time to ensure that stated thresholds are not exceeded in a piecemeal manner (ref. Section 126.0704(a)(2) governing exemptions from coastal development permits). Such a cumulative analysis is important in maintaining consistent application of the provisions of the LCP over the multi-decade economic life of most structures, and the absence of such an analysis in the City's proposal, even though it also regulates changes to coastal structures, renders the LCP amendment as proposed inadequate to carry out LUP policies that require previously conforming structures to be brought into conformity with current standards if 50% of a structure has been removed or replaced. This creates the potential for previously conforming elements to be rebuilt or renewed, even if reconstructed in the same footprint.

9. On Page 18 of the staff report, add the following paragraphs after the first full paragraph of Part V: Previously Conforming Development Regulations:

The modifications to Section 127.0106(c), which governs expansions to previously conforming structures on parcels that contain or abut a coastal beach or coastal bluff, constitute substantial steps to encompassing measurement and analysis of major elements involved in structural improvements that could potentially increase the degree of non-conformity, such as foundations, exterior walls, and increases in

interior floor area. Of note is the suggested modification in Section 127.0106(c)(3), which limits any expansion to 500 square feet unless the applicant removes one square foot of non-conforming floor area for every new square foot of expansion area. This modification allows property owners reasonable improvements to existing structures while providing an incentive to abate the non-conforming aspects of the structure. The additional specificity on foundations and prohibition on caissons, coupled with the cumulative accounting of improvements to a structure over time, address much of the alterations and remodeling that are encompassed by “major structural components,” greatly reducing the likelihood of a development increasing the degree of nonconformity of an existing structure. The prohibition on reliance on shoreline protection and requirement for a waiver of shoreline protection for improvements to previously conforming structures on coastal parcels ensures that while a property owner may wish to continue to use a previously conforming structure, doing so will not increase the likelihood that shoreline protection will be installed in the future to protect the improvements, meeting the bluff protection policies of the certified LUPs.

Related to the permissible expansion, the suggested modification in Section 127.0106(c)(5) recognizes the fact that many structures are previously conforming due to their age, and thus there exist structures along the coast that are substantially smaller in size compared to the neighboring properties. Thus, there could be a case of a 3,000 square foot structure on a coastal parcel with a portion of the structure located within the bluff setback, where the current Floor Area Ratio limit governing total square footage could permit a structure of significantly greater size, resulting from multiple 500 square foot additions over time. In the case of a structure of this type, it may be possible, even with the suggested modifications, that the property owner could expand the structure in 500 square foot segments over the years, until the end result is a structure over twice the size and retaining the non-conforming portions within the bluff top setback, greatly expanding the economic life of the structure and thus its degree of non-conformity. To avoid such an outcome, and to provide property owners with a clear threshold beyond which development would lose its previously conforming rights, Section 127.0106(c)(5) clearly states that demolition of exterior walls and expansions to square footage shall be tracked on a cumulative basis from the date of amendment approval so as to identify when the 50% threshold is reached for a previously conforming structure.

The suggested modification language focusing on “premises that contains or abuts a coastal beach or coastal bluff” in order to identify the properties that fall under the stricter scrutiny of the suggested modification language is preferable to an arbitrary linear distance inland from those aforementioned geological features because development along San Diego’s coast line, just like the coast line itself, is rarely uniform, with various factors affecting topography, lot size, structure location, drainage, views, and access opportunities. Lots and parcels along the coast line are of various depths and sizes, and it is possible that in stating an explicit distance inland, previously conforming structures, while on coastal properties and thereby potentially causing impacts to geological stability and

coastal access, could still not be addressed. Therefore, because by their nature, the majority of properties along the coast will either abut or contain a defined coastal feature such as a coastal bluff or sandy beach, basing the applicability of the suggested modification language on the presence of such coastal features will reduce the likelihood that a previously conforming structure will not be properly regulated under the modified LCP language.

10. Beginning on Page 18 of the staff report, the final full paragraph shall be revised as follows:

Furthermore, a common source of confusion among property owners within San Diego's coastal zone has been what exactly constitutes "demolition" of an existing structure, and thus when the fifty percent threshold is crossed and the entire structure is required to be brought to current standards. By expanding upon and clarifying which ~~major structural components of a structure are considered in an improvement project, as well as how some of those~~ components are measured, as in the case of exterior walls for structures within the Coastal Overlay Zone, the suggested modifications will simplify the development review process for both property owners during the pre-application stage, and the local government during the permit review process.

**CALIFORNIA COASTAL COMMISSION**

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December 17, 2015

# Th16c

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
ALEXANDER LLERANDI, COASTAL PROGRAM ANALYST, SAN DIEGO  
COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR LCP  
AMENDMENT NO. LCP-6-SAN-15-0017-2 (Small Lot Subdivisions/9<sup>th</sup> Update  
to the Land Development Code) for Commission Meeting of January 14, 2015**

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## SYNOPSIS

On June 26, 2015, the City of San Diego's Local Coastal Program (LCP) Amendment No. LCP-6-SAN-15-0017-2 was filed in the San Diego District office. This submittal involves changes to the City's certified implementation plan (IP)/Land Development Code (LDC) to revise its regulations regarding small lot subdivisions and a separate 9<sup>th</sup> Update package of amendments. A one-year time extension was granted on the amendment submittal on August 13, 2015. As such, the last date for Commission action on this item is the August 2016 hearing.

## SUMMARY OF AMENDMENT REQUEST

The subject amendment request consists of two distinct parts: an update to the small lot subdivision regulations to allow for the subdivision of multi-family zoned land, consistent with the density of the LCP/community plan, for the construction of single family residences, and the 9<sup>th</sup> Update to the LDC, containing approximately 57 separate changes divided into the categories of Permit Process, Use, Measurement, Parking, Signs, and Minor Corrections. The City periodically reviews the LDC and proposes corrections, modifications, clarifications, etc. to make the document easier to understand and enforce.

## SUMMARY OF STAFF RECOMMENDATION

The significant issues raised in the 9<sup>th</sup> Update relate to the regulations governing improvements to previously conforming structures and the retention or termination of previously conforming rights. As submitted, the amendment would allow improvements to previously conforming structures that could increase the degree of non-conformity of

the structures along the coast – where concerns for coastal hazards, public access, and public views are greatest – such as new improvements within required setback areas. The general purpose of previously conforming regulations is to inform property owners that while some level of improvement to a previously conforming structure can potentially be allowed without the entire structure needing to be brought into conformity with current regulations, there are certain thresholds that, once crossed, terminate previously conforming rights. The City's proposed amendment to the previously conforming regulations greatly expand the scope of improvements to previously conforming structures to allow improvements that themselves increase the degree of non-conformity of the structure so long as they do not go beyond the extent of the existing non-conforming aspects of the structure (i.e. a new addition within a required setback so long as it does not encroach farther out than the existing encroachment).

If a development project were to be exempted under the proposed amendment simply because the existing structure already contains some previously conforming features, it will allow property owners to increase the degree of non-conformity, as well as extend the life of structures that are on properties likely subject to future geological hazards, such as bluff top or beachfront parcels. If a previously conforming property were allowed to increase the degree of non-conformity, it is unclear how the City would be able to meet the policy goals of the LCP, such as siting development away from areas of geological or other coastal hazards, and protecting public views of the ocean that fall over private properties.

While many improvements to existing structures, previously conforming or not, trigger the need for a CDP under the certified LCP, that in and of itself is not always sufficient to meet the intent of the certified LCPs. There are certain levels of improvements to a structure even along the shoreline that do not trigger the need for a CDP (such as small additions), that could still increase the degree of non-conformity by extending or renewing the life of a previously conforming structure, such as a portion of a residence within a bluff top setback. Furthermore, additions and alterations to an existing structure are not currently tracked on a cumulative basis. Thus, while an individual project may fall under the threshold for requiring that the entire structure be brought into conformance with current standards, over time separate alterations may be utilized to thwart the intent of the threshold and construct an essentially new structure in piecemeal fashion. This can perpetuate existing lines of development along shoreline properties, where the risk from sea level rise, and thus the potential for future shoreline protective devices, is greatest. Protective measures including, but not limited to, recordation of waivers of shoreline protection, abating non-conformities, and siting new development away from coastal bluffs and beaches could be missed in some of the potential improvements to previously conforming structures along the coastline. Recognizing that it is these properties along the coastline that are under the greatest risk from coastal hazards and where concerns for public access and views are greatest, the suggested modifications put forward language requiring that improvements to structures on such properties do not increase the level of non-conformity and focuses this stricter language on these oceanfront or bayfront properties within the coastal zone.

Staff is recommending rejection of the proposed amendment, as submitted, and then approval of the amendment with suggested modifications. The amendment request, as modified, and the LDC would remain consistent with the City's many certified Land Use Plans (LUPs). The appropriate resolutions and motions begin on Page 5. The suggested modifications begin on Page 6. The findings for rejecting the amendment as submitted begin on Page 12. The findings for approval of the amendment, as modified, begin on Page 12.

## **BACKGROUND**

The City's first IP was certified in 1988, and the City then assumed permit authority. The IP consisted of portions of the City's Municipal Code, along with some Planned District Ordinances (PDOs) and Council Policies. In 1999, the Commission certified the City's LDC that primarily includes Chapters 11 through 14 of the municipal code. It replaced the first IP and took effect in the coastal zone on January 1, 2000. The Commission has certified many IP amendments since 2000.

## **ADDITIONAL INFORMATION**

Further information on the City of San Diego LCP Amendment LCP-6-SAN-15-0017-2 may be obtained from Alexander Llerandi, 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, and in 1977, requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part.

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

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

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

### **C. PUBLIC PARTICIPATION**

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review.

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

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

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

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment No. LCP-6-SAN-15-0017-2 for the City of San Diego certified LCP, as submitted.*

**STAFF RECOMMENDATION OF REJECTION AS SUBMITTED:**

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

**RESOLUTION TO DENY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of San Diego and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan(s). Certification of the Implementation Program amendment 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 amendment as submitted.

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. LCP-6-SAN-15-0017-2 for the City of San Diego if it is modified as suggested in this staff report.*

**STAFF RECOMMENDATION OF CERTIFICATION AS MODIFIED:**

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

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

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

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

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

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

1. Please revise Sub-section 127.0104(e), Maintenance, Repair, Alteration, or Replacement of Previously Conforming Structures, to read as follows:

#### **§127.0104 Maintenance, Repair, Alteration, or Replacement of Previously Conforming Structures**

(a) Maintenance, repair, alteration, or replacement of a structure with a previously conforming structural envelope is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit pursuant to Section 126.0704(b).

(b) Maintenance, repair, alteration, or replacement of a structure with a previously conforming structural envelope for proposed development that requires a Coastal Development Permit pursuant to Section 126.0704(b) requires a Neighborhood Development Permit decided in accordance with Process Two.

(c) Maintenance, repair, alteration, or replacement of a dwelling unit or multiple dwelling unit structure, that makes the premises previously conforming for density, is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit.

(d) Maintenance, repair, alteration, or replacement of a non-residential structure containing a previously conforming use is permitted in accordance with Process One if the proposed development would retain 50 percent or more of the exterior walls of the previously conforming structure. If the proposed development would retain less than 50 percent of the exterior walls of the previously conforming structure, the proposed development requires a Neighborhood Development Permit decided in

accordance with Process Two. The calculation of exterior walls shall be measured in accordance with Section 127.0111.

(e) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or coastal bluff edge within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's major structural components, which shall be measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

2. Please revise Sub-section 127.0105(d), Reconstruction Following Fire, Natural Disaster, or Act of the Public Enemy, to read as follows:

**§127.0105 Reconstruction Following Fire, Natural Disaster, or Act of the Public Enemy**

(a) The reconstruction provisions of Section 127.0105 apply only to the reconstruction of a previously conforming structure destroyed, in whole or in part, as a result of fire, natural disaster, or act of the public enemy, that met one or more of the following conditions prior to the event that caused the destruction:

(1) The structure had a previously conforming structural envelope;

(2) The structure was a dwelling unit, or a structure that included a dwelling unit or dwelling units, that made the premises previously conforming for density; or

(3) The structure contained a previously conforming use.

(b) Reconstruction of any previously conforming structure described in Section 127.0105(a) is permitted in accordance with Process One as follows:

(1) Reconstruction of a non-residential structure containing a previously conforming use and resumption of the use where less than 50 percent of the structure's exterior walls were destroyed; or

(2) Reconstruction of a structure with a previously conforming structural envelope or a structure that makes the premises previously conforming for density where:

(A) The new structure would neither exceed the gross floor area nor the structure height of the destroyed structure by more than 10 percent; and

(B) The new structure would be located in substantially the same location as the destroyed structure or in a location that would reduce the non-conformity regarding structural envelope or density.

However, reconstruction of previously conforming density shall not exceed the number of dwelling units that existed prior to the event that caused the destruction.

(c) Reconstruction of any previously conforming structure described in Section 127.0105(a) requires a Neighborhood Development Permit if decided in accordance with Process Two if the proposed development does not meet the criteria for Process One approval in Section 127.0105(b).

(d) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or coastal bluff edge within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's major structural components, which shall be measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

~~(1) Such reconstruction is subject to Coastal Development Permit regulations and other regulations applicable to conforming development.~~

~~(2) The calculation of exterior walls shall be measured in accordance with Section 127.0111.~~

(e) Section 127.0105 does not provide an exemption from any requirement to obtain applicable construction permits or development permits.

3. Please revise Section 127.0106, Expansion or Enlargement of Previously Conforming Structures or of Structures on a Premises with Previously Conforming Density, to read as follows:

**§127.0106 Expansion or Enlargement of Previously Conforming Structures or of Structures on a Premises with Previously Conforming Density**

(a) Proposed expansion or enlargement of a structure with a previously conforming structural envelope or of a structure on a premises with previously conforming density is permitted in accordance with Process One as follows, except that such development on a premises that contains or abuts a coastal beach or a coastal bluff edge is subject to Section 127.0106(c):

(1) Where all new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and does not increase the non-conformity regarding structural envelope or density;

(2) Where the proposed expansion or enlargement is necessary to incorporate required public exits or fire walls to meet public safety requirements of the California Building Code or California Fire Code for a conforming use in a previously conforming multiple dwelling unit or non-residential structure as long as the need is not one created by the proposed expansion or enlargement.

(b) Proposed expansion or enlargement of a previously conforming structural envelope within a setback, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit decided in accordance with Process Two, which shall only be granted if the proposed expansion or enlargement meets all of the following criteria:

(1) Conforms to the setback observed by the existing structure;

(2) Complies with the floor area ratio and maximum structure height of the underlying base zone;

(3) Does not encroach into a front yard or extend outside of the developable area of the underlying base zone to within 10 feet of the front yard setback line, unless the proposed expansion or enlargement would reduce the non-conformity of existing development on a coastal bluff;

(4) Does not encroach more than 15 feet into any required side or rear yard;

(5) Does not result in a total structure length within the required yard that is greater than 50 percent of the length of the adjacent property line;

(6) Does not create any new habitable space within 3 feet of the property line;

(7) Is limited to additions at the first story level (as measured in accordance with Section 113.0261) and does not exceed the height of the existing structure within the setback;

(8) Does not result in more dwelling units than the underlying base zone allows; and

(9) Does not propose development on a premises that contains or abuts a coastal beach or coastal bluff edge ~~within a required coastal bluff setback.~~

(c) For structures located on a premises that contains or abuts a coastal beach or a coastal bluff edge, new additions and improvements to existing structures, may be permitted subject to a Coastal Development Permit, provided that all such new additions or improvements themselves do not increase the degree of non-conformity and comply with the following:

(1) The proposed coastal development is in conformity with the certified Local Coastal Program land use plan;

(2) The proposed coastal development does not alter more than 50 percent of the major structural components of the structure as measured in accordance with Section 127.0111;

(3) The proposed coastal development does not constitute an increase in gross floor area greater than 50 percent of the existing gross floor area of the existing structure on a cumulative basis;

(4) The proposed coastal development does not rely on existing shoreline protection; and

(5) The applicant agrees to execute and record a waiver of future shoreline protection.

(d) In the Coastal Overlay Zone, the previously conforming status for a structure located on a premises that contains or abuts a coastal beach or a coastal bluff edge ~~within 50 feet of a coastal bluff edge~~ shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's major structural components as measured in accordance with Section 127.0111 exterior walls. Development standards applicable to new structures shall then apply to the entire structure.

(e) Proposed expansion or enlargement or a change in use of a previously conforming large retail establishment is subject to a Process One Construction Permit and the applicable supplemental regulations in Section 143.0355(e) except as described below. Proposed expansion or enlargement or a change in use of a large retail establishment that would

result in a structure that is 100,000 or greater square feet of gross floor area and an increase in average daily trips is subject to a Site Development Permit in accordance with Section 126.0502.

4. Please revise Section 127.0111(a), Rules for Calculations and Measurement of Exterior Walls, to read as follows:

**§127.0111 Rules for Calculations and Measurement of Exterior Walls**

(a) For the purposes of this Division, an exterior wall shall be considered removed if the building Official determines that the structural integrity of the structure ~~that wall~~ has been lost.

(1) All previously conforming rights shall terminate when proposed development constitutes redevelopment, defined as: additions to an existing structure, exterior and/or interior renovations, and/or demolition of an existing structure or portions thereof which results in:

i. Alteration of 50% or more of major structural components including: exterior walls, floor and roof structure, and foundation, or a 50% increase in floor area. Alterations are not additive between individual major structural components; however, changes to individual major structural components are cumulative over time from the date of certification of the LCPA.

ii. Alteration of an exterior wall includes, but is not limited to, when an exterior wall is made an interior wall, an existing door or window is in-filled or replaced with a new door or window of different size or location, the existing support structure is altered, or the existing support structure is detached from the base plates.

(2) Demolition, renovation, or replacement of less than 50% of a major structural component where the proposed alteration would result in cumulative alterations exceeding 50% or more of a major structural component, taking into consideration previous alterations approved on or after the date of certification of the LCPA; or an alteration that constitutes less than 50% increase in floor area where the proposed alteration would result in a cumulative addition of greater than 50% of the floor area taking into consideration previous additions approved on or after the date of certification of the LCPA.

(b) The applicant shall provide sufficient information to demonstrate the extent of the proposed wall removal, or in the case of a structure destroyed by fire, natural disaster, or act of the public enemy, the extent of wall destruction, including, but not limited to:

- (1) A site plan of the structure showing all existing exterior walls (and those that were destroyed in accordance with Section 127.0105, if applicable) identified and dimensioned in linear feet;
- (2) A demolition plan with dimensions specified in linear feet for any existing exterior walls proposed to be demolished or removed and replaced in accordance with Section 127.0111(a)(1) or showing the exterior walls that were destroyed in accordance with Section 127.0105, if applicable; and
- (3) Structural calculations and details regarding all walls within the structure proposed to be modified or reconstructed.

(c) The length of the exterior walls shall be measured in linear feet

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

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

The subject amendment request consists of approximately 57 separate items, and represents the 9<sup>th</sup> Update of the certified LDC, which went into effect in the coastal zone on January 1, 2000. The City periodically reviews the LDC and proposes corrections, modifications, clarifications, etc. to make the document easier to understand and enforce.

This update is similar to past updates in that it addresses a number of different categories of the LDC, including the aforementioned previously conforming regulations, how to calculate certain measurements, determining the applicable permit process, industrial uses, parking, compliance with State law, and minor corrections. Many of the requested updates are simple changes in nomenclature or correcting references to other regulations in the code.

While some of the update addresses how measurements and calculations are to be obtained, the standards themselves are not changed. Instead, the explanation of how to measure and calculate has been simplified to be more understandable for any developer, homeowner, or concerned citizen.

## **B. FINDINGS FOR REJECTION**

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

### **1. Previously Conforming Development Regulations:**

The subject amendment to the LCP contains proposed provisions within Section 127.0106 that greatly expands the allowable improvements to previously conforming structures. The proposal would allow, to a certain extent, owners of such previously conforming structures, to implement improvements, such as additions, that themselves are out of compliance with current requirements, so long as such new improvements do not exceed the degree of non-conformity (i.e. encroach even further out) than the existing non-conforming aspects of the existing structures. Section 127.0106 as proposed to be amended states, in relevant part:

#### **§127.0106 Expansion or Enlargement of Previously Conforming Structures or of Structures on a Premises with Previously Conforming Density**

(a) Proposed expansion or enlargement of a structure with a previously conforming structural envelope ~~is subject to the procedural requirements for conforming structures if the existing density and use comply with all applicable development regulations of the Land Development Code and if the new construction will comply with all applicable development regulations.~~ or of a structure on a premises with previously conforming density is permitted in accordance with Process One as follows:

(1) Where all new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and does not increase the non-conformity regarding structural envelope or density;

(2) Where the proposed expansion or enlargement is necessary to incorporate required public exits or fire walls to meet public safety requirements of the California Building Code or California Fire Code for a conforming use in a previously conforming multiple dwelling unit or non-residential structure as long as the need is not one created by the proposed expansion or enlargement.

(b) Proposed expansion or enlargement of a previously conforming structural envelope within a setback, where the existing previously conforming structure does not comply with applicable zoning regulations as to density or use, requires, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit. decided in

accordance with Process Two, which shall only be granted if the proposed expansion or enlargement meets all of the following criteria:

- (1) Conforms to the *setback* observed by the existing *structure*;
- (2) Complies with the *floor area ratio* and maximum *structure height* of the underlying base zone;
- (3) Does not encroach into a *front yard* or extend outside of the developable area of the underlying base zone to within 10 feet of the *front yard setback* line, unless the proposed expansion or enlargement would reduce the non-conformity of existing *development* on a *coastal bluff*;
- (4) Does not encroach more than 15 feet into any required side or rear *yard*;
- (5) Does not result in a total *structure* length within the required *yard* that is greater than 50 percent of the length of the adjacent *property line*;
- (6) Does not create any new habitable space within 3 feet of the *property line*;
- (7) Is limited to additions at the first *story* level (as measured in accordance with Section 113.0261) and does not exceed the height of the existing *structure* within the *setback*;
- (8) Does not result in more *dwelling units* than the underlying base zone allows; and
- (9) Does not propose *development* within a required *coastal bluff setback*.

Section 127.0111, as proposed, states, in relevant part:

**§127.0111 Rules for Calculations and Measurement of Exterior Walls**

- (a) For the purpose of this Division, an exterior wall shall be considered removed if the Building Official determines that the structural integrity of that wall has been lost.
- (b) The applicant shall provide sufficient information to demonstrate the extent of the proposed wall removal, or in the case of a structure destroyed by fire, natural disaster, or act of the public enemy, the extent of wall destruction, including, but not limited to:

- (1) A site plan of the structure showing all existing exterior walls (and

those that were destroyed in accordance with Section 127.0105, if applicable) identified and dimensioned in linear feet;

(2) A demolition plan with dimensions specified in linear feet for any existing exterior walls proposed to be demolished or removed and replaced in accordance with Section 127.0111(a)(1) or showing the exterior walls that were destroyed in accordance with Section 127.0105, if applicable; and

(3) Structural calculations and details regarding all walls within the structure proposed to be modified or reconstructed.

(c) The length of the exterior walls shall be measured in linear feet.

In the case of the City of San Diego, it has developed community planning areas based on its established neighborhoods and future urbanizing area. Predicated on those community planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). These community plans or LCP Land Use Plans contain policies that seek to reduce risk from coastal hazards and protect, or where possible enhance, public access and public views. The Commission's review of the proposed changes to the Land Development Code must assure that development is approved only when consistent with the certified LCP.

Listed below are shoreline development and adaptation standards, hazard reduction, and resource protection policies contained in the certified Land Use Plan segments in the Coastal Overlay Zone for the City of San Diego.

### **Ocean Beach Land Use Plan**

- 7.3.5 Develop and implement shoreline management strategies to ensure all shoreline development will provide long term protection of the coastal bluffs, beaches, and public coastal access in the community.
  - a. Require assumption of risk and a waiver of rights to future shoreline protection for any new bluff top development or redevelopment.
  - b. Tie a shoreline protective device to the life of the structure it has been permitted to protect and address the feasibility of removing such devices when the structure it is authorized to protect is demolished, redeveloped, or no longer requires a protective device, whichever occurs first. Include mitigation for shoreline armoring, if allowed, for coastal resource impacts, including but not necessarily limited to ecological impacts and impacts to shoreline sand supply and public access and recreation over the life of the protective device. Require periodic assessment of the need for additional

mitigation and of changed site conditions that may warrant removal or modification of the protective device.

- 7.3.8 Preserve and protect coastal bluffs, beaches, and shoreline areas. Encourage the retreat of existing development from the coastal bluff edge, and the removal of shoreline protective devices with proposals for development. Use the coastal development permit approval process to require additions and accessory structures to be landward of the bluff edge setback line.
  - a. Require removal or relocation of accessory structures located within the bluff edge setback if it is determined, in conjunction with proposed development on the site that such structures pose a threat to the bluff stability, or, such structures should be brought into conformance with current regulations.
  - b. When redevelopment of an existing previously conforming structure on a bluff top property includes the demolition or removal of 50 percent or more of the exterior walls or replacement of more than 50 percent of the structure, require the entire structure to be brought into conformance with all policies and standards of the Local Coastal Program, including, but not limited to, bluff edge setback.

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

- The City should preserve and protect the coastal bluffs, beaches and shoreline areas of La Jolla assuring that development occurs in a manner that protects these resources, encourages sensitive development, retains biodiversity and interconnected habitats and maximizes physical and visual public access to and along the shoreline.
- Development on coastal bluffs should be set back sufficiently from the bluff edge to avoid the need for shoreline or bluff erosion devices so as not to impact the geology and visual quality of the bluff and/or public access along the shoreline.
- The City should establish incentives to encourage the location of new or redevelopment landward of the bluff edge setback line.
- Set back new development on property containing coastal bluffs at least 40 feet from the bluff edge so as to no impact the geology and visual quality of the bluff. This setback may be reduced to not less than 25 feet if evidence is provided that indicates the site is stable enough to support the development at the proposed location without requiring construction of shoreline protective measures throughout the economic lifespan of the structure (not less than 75 years). Require applicants to accept a deed restriction to waive all rights to protective devices associated with new development on coastal bluffs. Do not allow a bluff edge setback of less than 40 feet if erosion control measures or shoreline protective devices exist on the site which are necessary to protect the existing principal

structure in danger from erosion. Require removal of obsolete or unnecessary protective devices, when feasible, and in a safe manner, or otherwise allow such devices to deteriorate naturally over time without any improvements allowed, to restore the natural integrity and visual quality of the coastal bluff over the long term. When appropriate, development may include open fencing to deter trespassing and protect fragile resources, and erosion control measures. These measures, such as seawalls and drainage conduits, are subject to the Environmentally Sensitive Lands regulations which will ensure that such measures do not alter the natural character of the bluff face, restrict public access, or encroach on public property. Do not allow erosion control measures on a site where development was approved with less than a 40 foot bluff edge setback, unless otherwise permitted in the Sensitive Coastal Bluff Regulations in the Land Development Code.

- Require removal or relocation of accessory structures located within the bluff edge setback if it is determined, in conjunction with proposed development on the site that such structures pose a threat to the bluff stability, or such structures should be brought into conformance with current regulations.
- For structures located partially or entirely within the bluff edge setback, require all additions (at grade and at upper floors) to be landward of the bluff edge setback line. Additions that increase the size of the structure by 50% or more, including all authorized additions that were undertaken after March 17, 1990 (effective certification of the LCP), shall not be authorized unless such structures are brought into conformance with the policies and standards of the Local Coastal Program.

Due to the age of the City of San Diego and many of its coastal communities, there are several previously conforming structures within the coastal zone. Some of these structures are previously conforming with regard to structural envelope, with portions of the structures within required front, side, or rear yard/bluff top setbacks. Over the years, many of these structures are the subject of applications to install new improvements, such as additions (both above and below grade), partial or complete demolition and reconstruction, or extensive remodels. While some of these improvements do trigger the need to obtain a CDP, the City's proposed amendments to the previously conforming regulations would make it easier for some of these previously conforming structures to increase the degree of non-conformity of the structure by adding new development not in compliance with current standards, thereby lessening the incentive for property owners to bring their structures into compliance with current standards or site the structure farther away from bluff edges or sandy beaches. This in turn could increase the risk of a shoreline protection device being required in the future by perpetuating a line of development in a hazardous area.

As mentioned earlier, one of the purposes of previously conforming regulations is to identify the thresholds beyond which a structure is no longer considered an existing structure, but instead constitutes new development, for which previously conforming

rights are terminated. The City's proposed Section 127.0111 attempts to clarify how calculation of demolition of exterior walls – a factor used in determining if an improvement will create a new structure – will be carried out. However, recent Commission action in other LCPs, including nearby Solana Beach, has demonstrated that when determining whether a home is being slightly improved or completely redeveloped, the analysis should look at changes to “major structural components,” such as foundation, roof structure, and floor area, in addition to exterior walls. The City's proposal lacks these elements, and thus future analysis of improvement projects to previously conforming structures may fail to properly analyze the true extent of change to the existing structure and how much is truly being retained. This creates the potential for previously conforming elements to be rebuilt or renewed, even if reconstructed in the same footprint.

Thus, with respect to the 9<sup>th</sup> Update's proposed amendments to the regulations governing previously conforming development, the language as proposed does not meet the intent of the coastal resource policies calling for abatement of coastal hazards and protection of public access and public views, and should be denied.

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

### **Previously Conforming Development Regulations**

The suggested modifications to the 9<sup>th</sup> Update's amendments to the regulations governing previously conforming development will implement the policies of the certified LUPs. Because the properties along the coastline have the greatest risk from coastal hazards, as well as greatest potential to adversely impact public access and public views, special attention should be paid to ensure that improvements to those properties do not increase the degree of non-conformity, either in size or economic life. As such, in order to focus the effect of the suggested modifications to the most impactful properties while not unduly burdening the rest of the non-conforming structures in the coastal zone, the suggested modifications make it clear that the stricter standards shall apply to properties containing or abutting to coastal beaches and coastal bluffs.

By focusing the effect of the stricter language of the suggested modifications on these properties, property owners of these coastal parcels will still be able to enjoy the reasonable economic use of their existing structures, being able to conduct common improvements such as remodels, while also having a clear threshold to inform them when the certified LCP would consider their structure to be completely redeveloped and their existing non-conforming rights must be terminated.

Furthermore, a common source of confusion among property owners within San Diego's coastal zone has been what exactly constitutes “demolition” of an existing structure, and thus when the fifty percent threshold is crossed and the entire structure is required to be brought to current standards. By expanding upon and clarifying which major structural components of a structure are considered in an improvement project, as well as how some

of those components are measured, as in the case of exterior walls, the suggested modifications will simplify the development review process for both property owners during the pre-application stage, and the local government during the permit review process.

Thus, through approval of the 9<sup>th</sup> Update, as modified, the amendment can be found to conform to and carry out the policies of the certified LCPs by ensuring that development along the coastline will conform to current standards over time and ensure that existing risks from and impacts to coastal resources are not exacerbated.

### **Permit Process Amendments**

The largest section of the 9<sup>th</sup> Update - twenty-two amendments – is dedicated to various permit processing amendments intended to clarify and streamline application and review of various project types. These amendments clarify expiration dates, consolidation of review processes, fees, time periods for filing appeals, cancellation of a permit, consistency between City and State CEQA processes, and various requirements for certain reviews. These amendments do not lessen public participation or notice in matters affecting coastal resources, and thus do not conflict with the intent of the certified LUPs.

### **Definition and Measurement Amendments**

These changes are relatively minor and clarify how to measure bay windows, garage and accessory structures, and roof projections into envelope plains, and when a building permit is required for retaining walls. These amendments do not change any substantive limits on when or where these features can be used, just how they are measured. Thus, the modified regulations remain consistent with the certified LUPs.

### **Parking Amendments**

The 9<sup>th</sup> Update's parking amendments are relatively minor, creating a new parking requirement of one space per 1,000 square feet of gross floor area for capital intensive manufacturing utilizing large equipment, as well as clarifying the applicability of driveway regulations to various development. These changes are relatively minor and have limited effect in the coastal zone (capital intensive manufacturing occupies a small percentage of San Diego's coastal zone), and thus neither of these amendments conflict with the standards of the certified LUPs.

### **Signage**

These updates streamline and coordinate the various processes used for reviewing applications for various types of signs, so as to lessen confusion and diminish processing time. Any community specific limitations on the usage of various types of signs themselves would remain unaffected, and thus these amendments do not conflict with the certified LUPs.

### **Minor Corrections**

These amendments merely change things such font, terminology, or grammar, or incorrect cross-references used in describing various development references in the IP and do not affect consistency with the certified LUPs.

### **Small Lot Subdivisions**

The proposed small lot subdivision ordinance is intended to encourage home ownership by allowing the subdivision of multi-family zoned land consistent with the underlying density requirement of the certified LCP. As cities such as San Diego grow in population, there is ever greater pressure to find sufficient housing within developed areas, as environmental realities highlight the impacts from outward growth in city populations (i.e. greater commuter miles driven, more open space developed, greater costs to implement effective public transit, etc.) The Commission has also recognized the tension in many communities between the local governments trying to consolidate growth and local residents wishing to preserve the residential character of many communities. By allowing for multiple single family residences within a parcel designated for multi-family use, the goal of increased density can be achieved in a manner that is less impactful to the surrounding character of residential development. Because the city's proposal does not change the use or intensity of use of any land, but instead modifies the manner in which the residential use of existing residentially zoned areas, it does not conflict with the certified LUPs.

In summary, the remainder of the 9<sup>th</sup> Update amendments and the Small Lot Subdivision amendments address the details of project development, without changing the basic concept of what is allowed in different areas. They do not modify or conflict with the policies or standards of individual certified LUP segments because they pertain to the "how" of things rather than the "where" or "when." For the most part, the proposed revisions do not significantly modify any development standards that would affect implementation of the City's LCP. Therefore, the 9<sup>th</sup> Update to the City of San Diego LCP, as modified, is consistent with, and adequate to carry out, the certified LUPs.

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

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

An EIR (No. 96-0333) was prepared and certified by the City on October 28, 1997, for the original project – the adoption of the Land Development Code. The proposed amendments to the LDC as part of the 9<sup>th</sup> Update were reviewed by the City's

Environmental Analysis Section and they determined, in accordance with CEQA Guidelines Section 15162(a), that no subsequent EIR or other environmental document is needed for the adoption of the 9<sup>th</sup> Update, as all impacts were adequately addressed and disclosed in EIR No. 96-0333.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. The provisions for previously conforming regulations as submitted do have the potential to place and retain development at risk of along the shoreline. Such inappropriately sited development would exacerbate the potential for increased requests for shoreline protection which could have adverse impacts on sand supply, beach ecology, public views, and coastal access opportunities. As modified herein, the LCP amendment, as modified, will not have any significant adverse effects on the environment and there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan amendment, as modified, conforms with CEQA provisions.

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~  
NEW LANGUAGE: Double Underline

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

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

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 7, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 127.0102, 127.0103, 127.0104, 127.0105, 127.0106, 127.0108, AND 127.0109, AND BY ADDING NEW SECTION 127.0111, ALL RELATING TO AMENDMENTS TO PREVIOUSLY CONFORMING LAND USES, PROPOSED AS PART OF THE 9TH UPDATE TO THE LAND DEVELOPMENT CODE.

§127.0102 **General Rules for Previously Conforming Premises and Uses**

The following general rules apply to all *previously conforming premises* and uses:

- (a) through (b) [No change in text.]
- (e) ~~Documentation of market value shall be in accordance with procedures established by the City Manager.~~
- (~~d~~)(c) Previously conforming premises and uses that comply with the provisions of this ~~d~~Division may continue to exist and operate unless termination in accordance with an amortization period is specified elsewhere otherwise required in the San Diego Municipal Code or by ordinance.
- (~~e~~)(d) Sale or transfer of the property or change of ownership does not terminate rights to the *previously conforming premises* or use, unless the owner

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Previously Conforming Regulations

agrees to such a condition as part of a permit or administrative or judicial order.

- (f)(e) Development involving ~~P~~previously conforming premises and uses are is subject to all other regulations and any *development permits* that may otherwise be required by the Land Development Code. The required ~~review~~ decision process shown in Table 127-01A and described in Sections 127.0103 through ~~127.0108~~ 127.0109 pertains only to the review required for the ~~previously conforming premises or use~~ aspects of a proposed development that may have previously conforming status. Proposed ~~development~~ sites located in the Coastal Overlay Zone or other geographic overlay zones are subject to the regulations of, and may require ~~development permit review in accordance with, those overlay zones.~~
- (f) None of ~~T~~the previously conforming regulations do not in this Division grant any deviation from the height regulations of the Section 132.0505 (Coastal Height Limit Overlay Zone), Section 132.1305 (Clairemont Mesa Height Limit Overlay Zone), or any other height limit overlay zone. Proposed development in overlay zones is also subject to the regulations of those overlay zones.
- (g) If a *previously conforming premises* or use is brought into conformance by a change in use or new *development*, the *previously conforming* status is terminated and the *premises* or use cannot revert to a *previously conforming* status. A temporary discontinuance of operations in

accordance with Section 127.0108(d) does not bring the previously conforming use into conformance or terminate the previously conforming status. See Section 127.0108 for additional regulations regarding discontinuance of previously conforming uses.

- (h) [No change in text.]
- (i) Regulations for *premises* that have *previously conforming* landscaping are ~~found-set forth~~ in Section 142.0410.
- (j) [No change in text.]
- (k) The regulations applicable to *development* involving *previously conforming uses* shall not apply to *multiple dwelling unit development* in a *single dwelling unit zone* that is *previously conforming* as to *density*.

**§127.0103 Review Decision Process for Previously Conforming Premises and Previously Conforming Uses**

The required review decision process for ~~different types~~ approval of proposed *development* or activity; varies based on the *previously conforming category aspects of the development*, such as ~~existing structural envelope, density,~~ and uses are as shown in Table 127-01A through 127-01C. If the proposed *development* includes more than one *previously conforming category aspect*, all corresponding regulations, as described in Sections 127.0104 through 127.0108 127.0109, apply.

~~(a) — *Previously Conforming Structural Envelope*~~

Table 127-01A

## Review Process for Previously Conforming Structural Envelope

Type of <i>Development Proposal</i>	Applicable Sections	Required Development Permit/Decision Process
Maintenance, repair or alteration (less than or equal to 50% of <i>market value</i> of entire <i>structure</i> or improvement) that does not expand the <i>structural envelope</i> .	127.0104	CP/Process 1
Maintenance, repair or alteration (greater than 50% of <i>market value</i> of entire <i>structure</i> or improvement) that does not expand the <i>structural envelope</i> .	127.0104	CP/Process 1
Reconstruction (following fire, natural disaster, act of the public enemy) for residential <i>structures</i> or for nonresidential <i>structures</i> when the cost of reconstruction is less than 50 percent of <i>market value</i> .	127.0105(a), (b) and (e)	CP/Process 1
Reconstruction (following fire, natural disaster, act of the public enemy) for nonresidential <i>structures</i> when the cost of reconstruction is greater than 50 percent of <i>market value</i> .	127.0105(c) and (d)	NDP/Process 2
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a), (b) and (e).	CP/Process 1
Expansion/enlargement where new construction requests a reduction of up to 20% from required <i>setbacks</i> .	127.0106(e).	NDP/Process 2

Legend to Table 127-01A:

CP — Construction Permit

NDP — Neighborhood Development Permit

(b) — *Previously Conforming Density*

**Table 127-01B**  
**Review Process for Previously Conforming Density**

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Maintenance, repair or alteration (less than or equal to 50% of market value of entire structure or improvement) that does not expand the structural envelope.	127.0104.	CP/Process 1
Maintenance, repair or alteration (greater than 50% of market value of entire structure or improvement) that does not expand the structural envelope.	127.0104.	NDP/Process 2
Reconstruction (following fire, natural disaster, act of the public enemy) for residential structures or for nonresidential structures when the cost of reconstruction is less than 50 percent of market value.	127.0105(a), (b) and (e)	CP/Process 1
Reconstruction (following fire, natural disaster, act of the public enemy) for nonresidential structures when the cost of reconstruction is greater than 50 percent of market value.	127.0105(e) and (d)	NDP/Process 2
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a) and (b).	NDP/Process 2
Expansion/enlargement where new construction requests a reduction of up to 20% from required setbacks.	127.0106(e).	NDP/Process 2

Legend to Table 127-01B:

CP ——— Construction Permit

NDP ——— Neighborhood Development Permit

(e) — *Previously Conforming Use*

**Table 127-01C**  
**Review Process for Previously Conforming Use**

<b>Type of Development Proposal</b>	<b>Applicable Sections</b>	<b>Required Development Permit/Decision Process</b>
Maintenance, repair or alteration (less than or equal to 50% of market value of entire structure or improvement) that does not expand the structural envelope.	127.0104	CP/Process 1
Maintenance, repair or alteration (greater than 50% of market value of entire structure or improvement) that does not expand the structural envelope.	127.0104	NDP/Process 2
Reconstruction (following fire, natural disaster, act of the public enemy).	127.0105	CP/Process 1 <sup>(1)</sup>
		NDP/Process 2 <sup>(2)</sup>
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a) and (b)	NDP/Process 2 <sup>(3)</sup>
Expansion/enlargement where new construction requests a reduction of up to 20% from required setbacks.	127.0106(c)	NDP/Process 2 <sup>(3)</sup>
Change to another <i>previously conforming</i> use within the same use category.	127.0107	CP/Process 1
Operating a <i>previously conforming</i> use, including resumption of <i>previously conforming</i> use up to 2 years after discontinuance.	127.0108(a) and (c)	CP/Process 1
Resumption of a <i>previously conforming</i> use after 2 years discontinuance.	127.0108(b) and (c)	NUP/Process 2
Increase in floor area to a <i>previously conforming</i> use (less than or equal to 20% of gross floor area of the existing structure).	127.0109	NUP/Process 2 <sup>(4)</sup>

Legend to Table 127-01C:

CP — Construction Permit  
 NDP — Neighborhood Development Permit  
 NUP — Neighborhood Use Permit

Footnotes to Table 127-01C:

<sup>(1)</sup> Applies to reconstruction of *previously conforming structures*, with *previously conforming density* or *previously conforming residential uses* with no limitation on cost. Applies to partial

- reconstruction of ~~structures with previously conforming nonresidential uses (less than or equal to 50 percent of market value of entire structure or improvement).~~
- (2) ~~Applies to reconstruction of previously conforming nonresidential uses when the cost of reconstruction is greater than 50 percent of market value.~~
- (3) ~~Findings of fact for this permit shall include the presumption that expansion of the following previously conforming uses would be detrimental to the public health, safety, and welfare: industrial uses in residential zones, auto repair or dismantling uses in residential zones, and any use in a zone that would require a Conditional Use Permit in accordance with Section 126.0303.~~

**Table 127-01A**  
**Decision Process for Previously Conforming Premises and Uses<sup>1</sup>**

<u>Type of Development Proposal</u>	<u>Process One Approval Required</u>	<u>Process Two Approval Required</u>
<u>Maintenance, repair, alteration or replacement in accordance with Section 127.0104</u>		
<u>Of a previously conforming structural envelope</u>	<u>If a Coastal Development Permit is not required pursuant to Section 126.0704(b)</u>	<u>If a Coastal Development Permit is required pursuant to Section 126.0704(b)</u>
<u>Of a structure on a premises with previously conforming density</u>		
<u>Of a structure containing a previously conforming use</u>	<u>If removal of less than 50 percent of the exterior walls of a structure containing a previously conforming use</u>	<u>If removal of 50 percent or more of the exterior walls of a structure containing a previously conforming use</u>
<u>Reconstruction (following fire, natural disaster, act of the public enemy) in accordance with Section 127.0105</u>		
<u>Of a previously conforming structural envelope</u>	<u>If the new structure would not exceed the gross floor area or height of the destroyed structure by more than 10 percent and the structure would be located in substantially the same location as the destroyed structure or in a location that would reduce the level of non-conformity</u>	<u>If the new structure would exceed the gross floor area or height of the destroyed structure by more than 10 percent or the structure would be located in a substantially different location as the destroyed structure that would not reduce the level of non-conformity</u>
<u>Of a structure on a premises with previously conforming density</u>		
<u>Of a residential structure with a previously conforming use</u>		
<u>Of a non-residential structure with a previously conforming use and resumption of the use</u>	<u>If less than 50 percent of the structure's exterior walls were destroyed</u>	<u>If 50 percent or more of the structure's exterior walls were destroyed</u>

<u>Type of Development Proposal</u>	<u>Process One Approval Required</u>	<u>Process Two Approval Required</u>
<u>Expansion/enlargement in accordance with Sections 127.0106 and 127.0109</u>		
<u>Of a previously conforming structural envelope</u>	<u>If new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and does not increase the level of non-conformity; or the expansion or enlargement is necessary to incorporate required public exits or fire walls to bring a multiple dwelling unit development or non-residential development structure into compliance with the California Building Code or Fire Code</u>	<u>If proposed development in the setback meets the criteria specified in Section 127.0106(b)</u>
<u>Of a structure on a premises with previously conforming density</u>		
<u>Of a previously conforming use</u>	<u>N/A</u>	<u>If an increase in floor area to a previously conforming use (up to a maximum of 20 percent expansion of gross floor area of the existing structure or up to the maximum floor area ratio of the underlying base zone, whichever is less)</u>
<u>Change in use of previously conforming uses in accordance with Section 127.0107</u>		
	<u>If a change to another previously conforming use within the same use category</u>	<u>N/A</u>

<u>Type of Development Proposal</u>	<u>Process One Approval Required</u>	<u>Process Two Approval Required</u>
<u>Resumption of a <i>previously conforming</i> use after a temporary discontinuance in accordance with Section 127.0108(d)</u>		
	<u>If resumption of a <i>previously conforming</i> use within two years after discontinuance</u>	<u>If resumption of a <i>previously conforming</i> use two or more years after discontinuance</u>

Footnote to Table 127-01A

- <sup>1</sup> Development that does not meet the criteria for a Process One or Process Two approval shall comply with all current regulations and the *previously conforming* aspect of the *premises* shall terminate.

§127.0104 Maintenance, Repair, ~~or~~ Alteration, or Replacement of Previously Conforming Structures

- (a) Maintenance, repair, ~~or~~ alteration, or replacement of a *previously conforming structure*, with a *previously conforming structural envelope* is permitted in accordance with Process One, where the new construction would not expand beyond the existing *structural envelope*, is subject to the review procedures required for *conforming structures* except as described in Section 127.0104(b) unless the proposed *development* otherwise requires a Coastal Development Permit pursuant to Section 126.0704(b).
- (b) Maintenance, repair, ~~or~~ alteration, or replacement of a *structure with a previously conforming structural envelope* ~~structure~~ containing *previously conforming density* or a *previously conforming use*, where the cost of the new construction would be greater than 50 percent of the *market value* of the existing *structure*, and the new construction would not expand beyond the existing *structural envelope*, requires a Neighborhood Development Permit for proposed *development* that requires a Coastal Development

Permit pursuant to Section 126.0704(b) requires a Neighborhood Development Permit decided in accordance with Process Two.

- (c) Maintenance, repair, alteration, or replacement of a dwelling unit or multiple dwelling unit structure, that makes the premises previously conforming for density, is permitted in accordance with Process One, unless the proposed development otherwise requires a Coastal Development Permit.
- (d) Maintenance, repair, alteration, or replacement of a non-residential structure containing a previously conforming use is permitted in accordance with Process One if the proposed development would retain 50 percent or more of the exterior walls of the previously conforming structure. If the proposed development would retain less than 50 percent of the exterior walls of the previously conforming structure, the proposed development requires a Neighborhood Development Permit decided in accordance with Process Two. The calculation of exterior walls shall be measured in accordance with Section 127.0111.
- (e) In the Coastal Overlay Zone, the previously conforming status for a structure located within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls.

§127.0105 Reconstruction of Previously Conforming Structures Following Fire, Natural Disaster, or Act of the Public Enemy

- (a) The reconstruction provisions of ~~this section~~ Section 127.0105 apply only to ~~rebuilding the reconstruction~~ of a previously conforming structure that

~~has been~~ destroyed, in whole or in part, as a result of fire, natural disaster, or act of the public enemy, that met one or more of the following conditions prior to the event that caused the destruction:

- (1) The structure had a previously conforming structural envelope;
  - (2) The structure was a dwelling unit, or a structure that included a dwelling unit or dwelling units, that made the premises previously conforming for density; or
  - (3) The structure contained a previously conforming use.
- (b) ~~Reconstruction of any previously conforming structure, including a structure with previously conforming density or a previously conforming residential use, is subject to the same review procedures required for conforming structures. Reconstruction of any previously conforming structure described in Section 127.0105(a) is permitted in accordance with~~

Process One as follows:

- (1) Reconstruction of a non-residential structure containing a previously conforming use and resumption of the use where less than 50 percent of the structure's exterior walls were destroyed; or
- (2) Reconstruction of a structure with a previously conforming structural envelope or a structure that makes the premises previously conforming for density where:
  - (A) The new structure would neither exceed the gross floor area nor the structure height of the destroyed structure by more than 10 percent; and

(B) The new structure would be located in substantially the same location as the destroyed structure or in a location that would reduce the non-conformity regarding structural envelope or density.

However, reconstruction of previously conforming density shall not exceed the number of dwelling units that existed prior to the event that caused the destruction.

(e) ~~Partial reconstruction of a structure containing a previously conforming nonresidential use is subject to the review procedures required for conforming structures, if the cost of the reconstruction is less than or equal to 50 percent of the market value of the structure prior to destruction.~~

(d)(c) Reconstruction of any previously conforming structure described in Section 127.0105(a) of a structure containing a previously conforming nonresidential use requires a Neighborhood Development Permit if the cost of the reconstruction is greater than 50 percent of the market value of the structure prior to the destruction decided in accordance with Process Two if the proposed development does not meet the criteria for Process One approval in Section 127.0105(b).

(d) In the Coastal Overlay Zone, the previously conforming status for a structure located within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls.

- (1) Such reconstruction is subject to Coastal Development Permit regulations and other regulations applicable to conforming development.
  - (2) The calculation of exterior walls shall be measured in accordance with Section 127.0111.
- (e) This section, or any Neighborhood Development Permit issued for reconstruction, Section 127.0105 does not ~~exempt any person provide an exemption~~ from any requirement to obtain applicable construction permits or other applicable development permits and ~~does not grant any deviation from the height limit regulations of the Coastal Height Limit Overlay Zone or any other applicable height limit overlay zone. All construction permits that would be required for conforming premises or uses must be obtained for reconstruction of previously conforming premises or uses.~~

**§127.0106 Expansion or Enlargement of Previously Conforming Structures or of Structures on a Premises with Previously Conforming Density**

- (a) Proposed expansion or enlargement of a structure with a previously conforming structural envelope is subject to the procedural requirements for conforming ~~structures~~ if the existing ~~density~~ and use ~~comply with all applicable development regulations of the Land Development Code and if the new construction will comply with all applicable development regulations.~~ or of a structure on a premises with previously conforming density is permitted in accordance with Process One as follows:
- (1) Where all new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and

does not increase the non-conformity regarding structural envelope or density:

(2) Where the proposed expansion or enlargement is necessary to incorporate required public exits or fire walls to meet public safety requirements of the California Building Code or California Fire Code for a conforming use in a previously conforming multiple dwelling unit or non-residential structure as long as the need is not one created by the proposed expansion or enlargement.

(b) Proposed expansion or enlargement of a *previously conforming structural envelope* within a setback, ~~where the existing previously conforming structure does not comply with applicable zoning regulations as to density or use, requires, or of a structure on a premises with previously conforming density that does not meet the criteria for expansion or enlargement in accordance with Section 127.0106(a), requires a Neighborhood Development Permit: decided in accordance with Process Two, which shall only be granted if the proposed expansion or enlargement meets all of the following criteria:~~

- (1) Conforms to the setback observed by the existing structure;
- (2) Complies with the floor area ratio and maximum structure height of the underlying base zone;
- (3) Does not encroach into a front yard or extend outside of the developable area of the underlying base zone to within 10 feet of the front yard setback line, unless the proposed expansion or

enlargement would reduce the non-conformity of existing development on a coastal bluff;

- (4) Does not encroach more than 15 feet into any required side or rear yard;
  - (5) Does not result in a total structure length within the required yard that is greater than 50 percent of the length of the adjacent property line;
  - (6) Does not create any new habitable space within 3 feet of the property line;
  - (7) Is limited to additions at the first story level (as measured in accordance with Section 113.0261) and does not exceed the height of the existing structure within the setback;
  - (8) Does not result in more dwelling units than the underlying base zone allows; and
  - (9) Does not propose development within a required coastal bluff setback.
- (e) ~~Proposed expansion or enlargement of a previously conforming structural envelope where the expansion would comply with regulations, but which proposes a reduction less than or equal to 20 percent from a required setback, requires a Neighborhood Development Permit.~~
- (d)(c) ~~Within the Coastal Overlay Zone, if the proposal involves the demolition or removal of 50 percent or more of the exterior walls of an existing structure, the previously conforming rights are not retained for the new~~

structure. In the Coastal Overlay Zone, the previously conforming status for a structure located within 50 feet of a coastal bluff edge shall terminate upon destruction, demolition, or removal of 50 percent or more of the structure's exterior walls.

- (e)(d) Proposed expansion or enlargement or a change in use of a *previously conforming large retail establishment* is subject to a Process One Construction Permit and the applicable supplemental regulations in Section 143.0355(e) except as described below. Proposed expansion or enlargement or a change in use of a *large retail establishment* that would result in a *structure that is 100,000 or greater square feet or greater of gross floor area* and an increase in average daily trips is subject to a Site Development Permit in accordance with Section 126.0502.

**§127.0108 Abandonment of Previously Conforming Uses**

- (a) ~~A previously conforming use may continue to operate or may resume operations if~~ If a previously conforming use is discontinued for a period of less than 2 two consecutive years, operations may be resumed, or changed to another use in the same category in accordance with Section 127.0107. Resumption of operations within 2 years is subject to the review procedures for conforming uses.
- (b) ~~It is unlawful to reinstate any~~ If a previously conforming use after the use has been discontinued for a period of 2 two or more consecutive years, unless the property owner has obtained resumption of the use requires a Neighborhood Use Permit. Discontinuance of the use for a period of 2 two

or more consecutive years creates a presumption in favor of abandonment, against which the owner or person asserting the previously conforming rights status may offer evidence. sufficient to satisfy the City Manager that one or more of the following has occurred:

- (1) The discontinuance is in accordance with Section 127.0108(d); or
  - (2) An active Neighborhood Use Permit approves or conditionally approves resumption of the previously conforming use.
- (c) A previously conforming use that is brought into conformance is no longer previously conforming and shall not resume operations or revert to a previously conforming status. A previously conforming use can maintain previously conforming status during construction in accordance with Section 127.0108(d) without being considered to have been abandoned.
- (e)(d) If the *previously conforming* use is ~~discontinued~~ temporarily discontinued while repairs, remodeling, or major alterations of the *structure* are under construction, maintenance of an active *construction permit* and ~~continuance of the Business Tax Certificate constitutes conclusive evidence~~ shall mean that the use has not been ~~abandoned~~ discontinued during the construction and the use's previously conforming status is maintained.

**§127.0109 Expansion of a Previously Conforming Use**

- (a) A 20 percent or less ~~gross floor area~~ gross floor area expansion of a ~~structure with a previously conforming use~~ requires a Neighborhood Use Permit decided in accordance with Process Two.
- (b) ~~When making the findings for a Neighborhood Use Permit for the proposed expansion of a previously conforming use,~~ Where located in residential zones, the following uses ~~are conclusively presumed to be detrimental to public health, safety, and welfare~~ shall not be eligible to expand in accordance with Section 127.0109(a):
- (1) ~~Industrial uses in residential zones~~ Hazardous waste facilities subject to Sections 141.1001 or 141.1002;
  - (2) Very Heavy Industrial Uses subject to Section 141.1007;
  - (3) Wrecking and Dismantling of Motor Vehicles subject to Section 141.1008; and
  - ~~(2)~~(4) Commercial and personal vehicle repair and maintenance facilities that meet the use category description in Sections 131.0112(a)(8)(A) or (C) in residential zones; and,
  - (3) ~~Any use that requires a Conditional Use Permit in the applicable zone in accordance with Section 126.0303.~~

**§127.0111 Rules for Calculations and Measurement of Exterior Walls**

- (a) For the purpose of this Division, an exterior wall shall be considered removed if the Building Official determines that the structural integrity of that wall has been lost.

- (b) The applicant shall provide sufficient information to demonstrate the extent of the proposed wall removal, or in the case of a structure destroyed by fire, natural disaster, or act of the public enemy, the extent of wall destruction, including, but not limited to:
- (1) A site plan of the structure showing all existing exterior walls (and those that were destroyed in accordance with Section 127.0105, if applicable) identified and dimensioned in linear feet;
  - (2) A demolition plan with dimensions specified in linear feet for any existing exterior walls proposed to be demolished or removed and replaced in accordance with Section 127.0111(a)(1) or showing the exterior walls that were destroyed in accordance with Section 127.0105, if applicable; and
  - (3) Structural calculations and details regarding all walls within the structure proposed to be modified or reconstructed.
- (c) The length of the exterior walls shall be measured in linear feet.

SMT:als  
03/22/2015  
Or.Dept: DSD  
Doc. No.: 962832\_2

Passed by the Council of The City of San Diego on APR 21 2015, by the following vote:

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

Date of final passage MAY 05 2015

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

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

By City Ready, Deputy

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

APR 07 2015, and on MAY 05 2015

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

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

By City Ready, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20482

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**  
**NEW LANGUAGE: Double Underline**

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

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

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 54.0308 AND 54.0309; AMENDING CHAPTER 6, ARTICLE 2, DIVISION 12 BY AMENDING SECTION 62.1205; AMENDING CHAPTER 9, ARTICLE 8, DIVISION 4 BY AMENDING SECTION 98.0425; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 1 BY AMENDING SECTIONS 112.0102 AND 112.0103; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 3 BY AMENDING SECTIONS 112.0301 AND 112.0309; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 112.0504; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 113.0103; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 113.0234; AMENDING CHAPTER 12, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 121.0203; AMENDING CHAPTER 12, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 121.0504 AND 121.0505; AMENDING CHAPTER 12, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 123.0101; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 1 BY AMENDING SECTION 125.0141; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 4 BY AMENDING SECTION 125.0461; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 10 BY AMENDING SECTION 125.1030; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 BY AMENDING SECTIONS 126.0108, 126.0110, 126.0111, 126.0112, AND 126.0113, AND BY REPEALING SECTION 126.0109; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY AMENDING SECTION 126.0502; AMENDING CHAPTER 12, ARTICLE 8, DIVISION 2 BY AMENDING SECTION 128.0209; AMENDING CHAPTER 12, ARTICLE 8, DIVISION 3 BY AMENDING SECTIONS 128.0306, 128.0310, AND 128.0312; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 6 BY REPEALING SECTIONS 129.0642 AND 129.0643; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTIONS 129.0702,

<b>EXHIBIT NO. 2</b>
APPLICATION NC
<b>6-SAN-15-0017</b>
Remainder of 9 <sup>th</sup> Update

129.0710, 129.0715, AND 129.0720, AND BY REPEALING SECTIONS 129.0743 AND 129.0744; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 8 BY AMENDING SECTIONS 129.0802, 129.0804, AND 129.0813, AND BY REPEALING SECTIONS 129.0806, 129.0811, 129.0812, AND 129.0815; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 131.0112; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTIONS 131.0202 AND 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0422, 131.0448, AND 131.0461; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522 AND 131.0540; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTIONS 131.0622 AND 131.0623; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 141.0302; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 141.0405 AND 141.0411; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 141.0504, AND BY ADDING NEW SECTION 141.0507; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY ADDING NEW SECTION 141.0602, BY REPEALING AND REPLACING SECTION 141.0607, AND BY AMENDING SECTION 141.0619; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 10 BY AMENDING SECTION 141.1003; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 11 BY AMENDING SECTION 141.1105; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 3 BY AMENDING SECTIONS 142.0305, 142.0310, AND 142.0340; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTIONS 142.0530 AND 142.0560; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY AMENDING SECTION 142.0670; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 9 BY AMENDING SECTION 142.0910; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 12 BY AMENDING SECTIONS 142.1206, 142.1210, 142.1220, 142.1225, AND 142.1260, AND BY ADDING NEW SECTION 142.1208; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 143.0212; AMENDING CHAPTER 14, ARTICLE 4, DIVISION 2 BY AMENDING SECTIONS 144.0233 AND 144.0242; AMENDING CHAPTER 15, ARTICLE 5, DIVISION 2 BY AMENDING SECTION 155.0238; AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 156.0315; AMENDING CHAPTER 15, ARTICLE 10, DIVISION 3 BY AMENDING SECTIONS 1510.0303, 1510.0307, AND

1510.0309; AMENDING CHAPTER 15, ARTICLE 13, DIVISION 3 BY AMENDING SECTION 1513.0304; AND REPEALING CHAPTER 15, ARTICLE 17, DIVISIONS 1, 2, 3, AND 4, ALL RELATING TO THE 9TH UPDATE TO THE LAND DEVELOPMENT CODE AND RELATED PROVISIONS.

§54.0308 **Standards for Boarding a Vacant Structure**

Except as provided in Section 54.0308(a)(9)(i), the *responsible person* or *Director* shall board a *vacant structure* according to all of the following specifications and requirements:

(a) through (i) [No change in text.]

§54.0309 **Entry or Interference with Notice Prohibited**

(a) It is unlawful for any person to enter or occupy any structure or premises which has been posted pursuant to Section 54.0308(a)(8)(h) of this ~~Division~~, except to repair or demolish the structure under proper permit or for a purpose authorized by the owner.

(b) It is unlawful for any person to remove or deface any notice posted pursuant to Section 54.0308(a)(8)(h) of this Code until the required repairs or demolition have been completed or a Certificate of Occupancy has been issued in accordance with appropriate provisions of the California Building Code as in Chapter IX of the Municipal Code.

§62.1205 **Duration of a ~~Public Right-of-Way Permit~~ Public Right-of-Way Permit to Excavate Within a Public Street**

It shall be unlawful for any person or *public utility* to excavate within the roadway section of a street in the *public right-of-way* without a valid ~~Public Right-of-Way Permit~~ Public Right-of-Way Permit under issued in accordance with Section 129.0702 129.0741. Notwithstanding Chapter 12, Article 9, Division 7, ~~Section~~

~~129.0743 and Section 129.0744, a *Public Right of Way Permit*~~ Public Right-of-Way Permit to excavate within the roadway section of a public street shall be void if the excavation has not begun within ninety calendar days of the start date specified in the permit, if the excavation is not pursued diligently to its conclusion, or if the excavation and restoration has not been completed within one calendar year from the permit issuance.

§98.0425 **Free Fee Payment**

When fees are to be paid, the payment or an offer for payment shall be made to and accepted by the school district prior to the issuance of a building permit for the proposed development.

§112.0102 **Application Process**

An application for a permit, map, or other matter shall be filed with the City Manager in accordance with the following requirements:

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

(d) Expiration of Application

(1) through (2) [No change in text.]

(3) An application related to a premises for which a civil penalty Notice and Order establishes a future date for corrective action of a code violation shall be automatically extended 180 calendar days from the date for corrective action. If the date for corrective action is less than two years from the date the application is deemed complete, the application may be extended in accordance with Section 112.0102(d)(2).

~~(3)~~(4) Once expired, the application, plans, and other data submitted for review may be returned to the *applicant* or destroyed by the City Manager.

~~(4)~~(5) To reapply, the *applicant* shall submit a new application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is *deemed complete*.

§112.0103     **Consolidation of Processing**

(a) When an *applicant* applies for more than one permit, map, or other approval for a single *development*, the applications shall be consolidated for processing and shall be reviewed by a single decision maker as follows, except as provided in Sections 112.0103(b) and (c).

(1) The decision maker shall act on the consolidated application at the highest level of authority for that *development* as set forth in Section 111.0105.

(2) The *findings* required for approval of each permit shall be considered individually, consistent with Section 126.0105.

(3) Where the consolidation of processing combines Process Two, Process Three, Process Four, or Process Five with Process CIP-Two or Process CIP-Five, the consolidation shall be made as follows:

~~(a)~~(A) Consolidation of Process Two and Process CIP-Two shall be consolidated into Process CIP-Two.

~~(b)~~(B) Consolidation of Process Three, Process Four, or Process Five with Process CIP-Five shall be consolidated into Process CIP-Five, except that any consolidation with a Process Five for rezoning shall be consolidated into Process Five.

(b) When the California Environmental Quality Act (CEQA) and California Water Code require that the City prepare a Water Supply Assessment (WSA), the WSA shall be considered by the City Council. The associated development permit applications are not required to be consolidated with approval of the WSA, as further described below:

(1) When the development permit is subject to Process Two, Three, or Four, the City Council must consider and approve the WSA prior to the lower decision maker's consideration and approval of the development permit.

(2) When the development permit is subject to Process Five, the City Council must consider and approve the WSA at a hearing that occurs prior to or at the same time as the hearing at which it grants approval of the development permit. A City Council action to adopt or certify an environmental document that incorporates a WSA constitutes approval of the WSA.

(c) An application for an approval required to comply with a civil penalty Notice and Order related to a code violation is not required to be

consolidated for processing with any other application, but may be consolidated at the applicant's request.

§112.0301 Types of Notice

(a) through (b) [No change in text.]

(c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five, or an appeal of a Process Two, Process CIP-Two, Process Three, or Process Four decision, or of an ~~environmental determination~~ determination. A Notice of Public Hearing shall also be provided before a decision is made by the City Council in accordance with Section 132.1555 (Overrule Process).

(1) through (2) [No change in text.]

(3) Distribution. Except as otherwise provided by the Municipal Code, the City Manager shall publish the Notice of Public Hearing in accordance with sSection 112.0303, and shall mail the Notice of Public Hearing to the persons described in sSection 112.0302(b), at least 10 *business days* before the date of the public hearing. Where fees are being imposed on a specific project to defray the cost of public facilities, the Notice of Public Hearing shall also be published, in accordance with California Government Code section 6062a, or as amended.

(d) through (e) [No change in text.]

§112.0309 Failure to Receive Notice

The failure of any person to receive notice given in accordance with this division and the State of California Planning and Zoning Laws shall not constitute grounds for any court to invalidate any action taken by the City for which the notice was provided: and such action shall not be held invalid for noticing errors in the absence of a court's final determination of invalidity on that basis under the standard set forth in California Government Code section 65010(b).

§112.0504 Process Two Appeal Hearing

(a) The Planning Commission shall hear appeals of Process Two decisions subject to the following requirements, unless otherwise specified in the Land Development Code.

(1) [No change in text.]

(2) Request for a Process Two Appeal Hearing.

(A) A Process Two decision may be appealed by filing an application for a Process Two appeal hearing with the City Manager no later than 12 *business days* after the *decision date*.

(B) ~~If an applicant appeals the denial of~~ Pursuant to the Subdivision Map Act, applicants may file an appeal of a decision to deny their application for an Extension of Time for a map waiver or tentative map. in accordance with Sections 125.0124 and 125.0461, the decision may be appealed no later than In such cases, the maximum time

period for filing an appeal is 12 business days or 15  
calendar days after the *decision date*, whichever is greater  
~~in accordance with Subdivision Map Act section~~  
66452.6(e).

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

(b) [No change in text.]

**§113.0103 Definitions**

*Abutting property* through *Public utility* [No change in text.]

*Reasonable Accommodation*, pursuant to the Fair Housing Amendments Acts of 1988 and the California Fair Employment and Housing Act, means accommodations necessary to afford *disabled persons* an equal opportunity to use and enjoy a ~~dwelling unit~~ dwelling.

*Reclamation* through *Yard* [No change in text.]

**§113.0234 Calculating Gross Floor Area**

*Gross floor area* is calculated in relationship to the *structure* and *grade* adjacent to the exterior walls of a building. The elements included in the *gross floor area* calculation differ according to the type of ~~development~~ development proposed and are listed in Section 113.0234(a)-(c). *Gross floor area* does not include the elements listed in Section 113.0234(d). The total *gross floor area* for a *premises* is regulated by the *floor area ratio* development standard.

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

(d) Elements Not Included in *Gross Floor Area*

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

- (4) Bay windows that meet all of the following criteria:
- (A) The bay window height is 5 feet or less:
  - (B) The interior space created by the bay window does not project outward more than 4 feet.
  - (C) At least a 3 foot clear space is provided between the bottom of the bay window projection and the grade below.
  - (D) The bay window projection does not require structural support.
  - (E) The total length of the bay window shall not exceed 15 linear feet.

§121.0203 Authority to Inspect Private Property

- (a) [No change in text.]
- (b) In addition to the powers set forth in Section 121.0203(a), the City Manager or designated Code Enforcement Official has the authority to enter any *structure*, during reasonable hours or at any time that extreme danger exists, in the discharge of official duties to do the following:
  - (1) through (4) [No change in text.]
  - (5) Inspect any *sign* ~~that is required to have a Sign Permit Sticker for~~ compliance with Chapter 14, Article 2, Division 12 (Sign Regulations).

§121.0504 Inspection and Abatement

- (a) ~~All signs that are required to have a Sign Permit Sticker are subject to inspection.~~ The City Manager or designated ~~e~~Code ~~e~~Enforcement

~~e~~Official is authorized to enter any property to inspect the any sign for placement of the sticker in accordance with ~~Section 121.0203~~ compliance with Chapter 14, Article 2, Division 12 (Sign Regulations).

(b) through (d) [No change in text.]

**§121.0505 Sign Permit Violations**

- (a) It is unlawful to erect or maintain a *sign* contrary to any provision of Chapter 14, Article 2, Division 12 (Sign Regulations).
- (b) ~~It is unlawful to erect or maintain a *sign* subject to Chapter 14, Article 2, Division 12 (Sign Regulations) without a Sign Permit Sticker as required by the Sign Regulations.~~

**§123.0101 Purpose of Zoning and Rezoning Procedures**

The purpose of these procedures is to establish the process for the inclusion or placement of any property within the City of San Diego into any zone as established and defined in Chapter 13 (Zones) or Chapter 15 (Planned Districts).

**§125.0141 Decision Process for Correction and Amendment of Maps**

A decision on an application to correct or amend a recorded map shall be made in accordance with the following:

- (a) through (b) [No change in text.]
- (c) Modified Conditions: If the proposed amendments modify or eliminate conditions of approval of the recorded map or do not substantially conform with the approved *tentative map*, ~~the City Council shall make the decision on~~ the application for the *amended map* in accordance with

Process Five shall be subject to the process that would apply if the map were submitted as a new application.

§125.0461 **Extension of Time for a Tentative Map**

The expiration date of a *tentative map* may be extended as follows:

- (a) The expiration date of a *tentative map* may be extended one or more times in accordance with the *Subdivision Map Act*, if the extensions do not exceed a total of 72 months. This time frame does not include any legislative extensions enacted pursuant to state law.

- (1) Request for Extension. An application for an Extension of Time for a *tentative map* shall be filed before the expiration date of the *tentative map* but not more than ~~60 calendar days~~ 12 months before the expiration date, in accordance with Section 112.0102. When an application for Extension of Time is timely filed, the *tentative map* shall be automatically extended for a period of 60 calendar days from the expiration date or until the Extension of Time is approved, conditionally approved, or denied, whichever occurs first.

(2) through (4) [No change in text.]

(b) through (c) [No change in text.]

§125.1030 **Decision Process for an Easement Vacation**

- (a) A decision on an application to vacate a *public service easement* requested in accordance with Section 125.1010(b) or to vacate any other type of easement requested in accordance with Section 125.1010(c) shall be made

by the City Council in accordance with Process Five, except that a recommendation by the Planning Commission is not required. A Planning Commission recommendation shall not be required for a Coastal Development Permit necessary solely because the public service easement vacation is in the Coastal Overlay Zone.

(b) [No change in text.]

§126.0108 ~~Initial~~ Utilization of a Development Permit

(a) A development permit grants the ~~applicant~~ permit holder 36 months to initiate utilization of the ~~development permit~~. ~~If none of the actions listed in Section 126.0108(b) has occurred~~ utilization does not occur in accordance with this Section within 36 months after the date on which all rights of appeal have expired, and an application for an extension of time was not timely filed, the *development permit* shall be void.

(b) To demonstrate utilization, the permit holder shall establish, with evidence identified in Section 126.0108(c), that at least one of the following circumstances occurred before expiration of the development permit:

- (1) Significant investment was incurred to meet permit conditions;
- (2) Substantial work was performed in reliance on the development permit granted; or
- (3) Use of the property has occurred in the manner granted by the development permit.

~~(b)(c)~~ *A development permit may be utilized by the following methods: Upon request, the permit holder shall provide evidence of the following, to the satisfaction of the City Manager:*

- (1) Issuance of a *construction permit* for the entire project or for a substantial portion of the activity regulated by the *development permit*, as determined by according to standards developed by the City Manager;
- (2) [No change in text.]
- (3) Evidence of substantial use ~~in progress~~ as granted by the *development permit*, according to standards as developed by the City Manager; ~~or~~
- (4) Approval of a *final map* or a *parcel map*, or acceptance of an easement, if the map or easement was a condition of, or was processed concurrently with, the *development permit*; or
- (5) Other facts demonstrating the occurrence of any of the circumstances described in Section 126.0108(b).

**§126.0109 Maintaining Utilization of a Development Permit**

- (a) If issuance of a *construction permit* in accordance with Section 126.0108 is the method used for initial utilization of the *development permit*, the *construction permit* shall be kept active until completion of the final inspection or issuance of the certificate of occupancy to maintain utilization of the *development permit*.

- (b) ~~If the *construction permit* is allowed to expire before completion of the project, the initial utilization of the *development permit* gained by that *construction permit* shall become void.~~
- (c) ~~A *development permit* that is voided in accordance with 126.0109(b) may be reactivated by obtaining a new *construction permit* either during the original 36-month timetable for that *development permit*, or during the timeline as may have been extended in accordance with Section 126.0111.~~

§126.0110 **Cancellation or Rescission of a Development Permit**

- (a) ~~An owner or permittee A permit holder may request cancellation of a *development permit* at any time before initial utilization of the permit. The owner or permittee permit holder shall submit the request for cancellation in writing to the City Manager. The City shall forward a written declaration of the cancellation to the County Recorder for recordation in accordance with Section 126.0106. The *development permit* shall be void as of the date it is cancelled by the City Manager. The *development permit* shall be void on the date that the declaration of cancellation is recorded with the County Recorder. The City shall mail a copy of the declaration of cancellation to the owner and permittee.~~
- (b) ~~Once If a *development permit* has already been utilized, an owner or permittee in accordance with Section 126.0108, the *permit holder* may submit an application to rescind the *development permit* in accordance with the following:~~

(1) through (2) [No change in text.]

The development permit shall be void as of the date it is rescinded by the City Manager.

- (c) The cancellation or rescission shall thereafter be recorded by the applicant, or the City may record it by forwarding a written declaration of the cancellation or rescission to the County Recorder for recordation in accordance with Section 126.0106.

§126.0111 Extension of Time of a Development Permit

- (a) Expiration Date. The expiration date of an approved *development permit* may be extended one or more times, ~~provided the~~ The development permit approval and subsequent development permit extensions do shall not exceed a total of ~~36 months~~ 72 months beyond the ~~expiration of the initial utilization period.~~ initial development permit approval date, with the following exceptions:
- (1) The 72 month maximum may be exceeded if permitted by any extension granted pursuant to state law or by any development permit extension granted by the City Council by ordinance.
- (2) When a *development permit* is associated with a *tentative map*, any map extensions granted pursuant to state law shall automatically extend the expiration of associated *development permits* to coincide with the expiration of the *tentative map*. ~~This extension of time shall not be subject to the 36 month restriction.~~
- (b) Request for Extension. Before the expiration of an approved *development permit*, but not more than ~~60 calendar days~~ 12 months before the

expiration date, ~~an applicant may file~~ an application may be filed for an extension of time ~~to~~ for a *development permit* in accordance with Section 112.0102. If an application for extension of time is timely filed, the *development permit* shall be automatically extended for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs ~~last~~ first.

(c) through (i) [No change in text.]

(i) Commencement of Extension. If the extension of time is granted, the extension shall begin from the date of the expiration of the previously-approved *development permit*.

**§126.0112 Minor Modifications to a Development Permit**

(a) A proposed minor modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit.

(b) If the revision is determined to be in *substantial conformance* with the approved permit, the revision shall not require an amendment to the *development permit*.

(c) Where a *development permit* requires compliance with a regulation in effect on the date of approval, but that regulation is subsequently amended, the *permit holder* may utilize the amended regulation without obtaining an amendment to its *development permit* if it obtains a Process Two Neighborhood Development Permit, or can demonstrate to the

satisfaction of the City Manager that the resulting *development* is in substantial conformance with the approved *development permit*.

- (d) Within the Coastal Overlay Zone, any *substantial conformance* determination shall be ~~reached through a~~ decided in accordance with Process Two review, except that a *substantial conformance* determination for a *capital improvement program project* shall be reached through a Process CIP-Two review.

§126.0113 **Amendments to a Development Permit**

- (a) A proposed revision to an approved *development permit* that would significantly reduce the scope of the *development* or is not in *substantial conformance* with the approved ~~permit~~ *development permit* requires an amendment to the approved ~~permit~~ *development permit* or an application for a new ~~permit~~ *development permit*, except that a *development permit* for industrial *development* in an industrial zone that is not located within 1,000 feet of a residential zone may be amended by obtaining a Process Two Neighborhood Development Permit.

(b) through (e) [No change in text.]

- (f) An amendment to a *development permit* shall not be required for approval of a *sign* application in accordance with Section 142.1208.

§126.0502 **When a Site Development Permit is Required**

(a) through (b) [No change in text.]

- (c) A Site Development Permit decided in accordance with Process Three is required for the following types of *development*.

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

(4) *Public improvements* required in association with private *development* that involve *development* of more than 3,000 feet of property frontage, as described in Section 142.0612, ~~except that capital improvement program projects shall be subject to Process CIP Two.~~

(5) *Public improvements* required in association with private *development* for which adopted City standards do not apply, as described in Section 142.0612, ~~except that capital improvement program projects shall be subject to Process CIP Two.~~

(6) through (8) [No change in text.]

(d) through (g) [No change in text.]

§128.0209 **When a Previous Environmental Document May Be Used**

(a) [No change in text.]

(b) ~~If a previously certified document is to be used, the Planning Director shall provide the decision making body with an explanatory cover letter stating that none of the conditions specified in State CEQA Guidelines, Section 15162, exists.~~

(e)(b) An EIR prepared in connection with an earlier project may be used for a later project, if the circumstances of the projects are essentially the same and are consistent with the State CEQA Guidelines, Section 15153.

§128.0306 **Required Time Periods for Public Review and Comment of on Draft Environmental Documents**

~~The public review period for~~ Other public agencies and members of the public shall have the following time periods to review and comment on draft environmental documents:

(a) ~~Negative Declarations, Mitigated Negative Declarations, and Environmental Impact Reports, and Addenda to environmental documents shall be consistent with that established by CEQA and the State CEQA Guidelines.~~

(b) ~~Addenda~~  
~~All addenda for environmental documents certified more than 3 years before the date of application shall be distributed for public review for 14 calendar days along with the previously certified environmental document. However, this review period for the addenda shall not extend the time for action beyond that required under law, and the failure to allow review of addenda, or allow sufficient time to review addenda, shall not invalidate any discretionary approval based upon an addendum under review.~~

§128.0310 **Draft or Final Environmental Document Preparation, Distribution and Availability Public Review**

~~An final environmental document consisting of all information required by CEQA and the State CEQA Guidelines and any other information the Planning Director may add shall be prepared and distributed for review: according to the following:~~

(a) Environmental Document Distribution to the Public

The Planning Director shall make an environmental document available to the public by posting it to the City's web page at least 14 calendar days prior to the earlier of the date that an advisory body makes a recommendation required by law or the date that the decision maker considers approval.

(b) Environmental Document Distribution to an Advisory Body

An advisory body required by law to make a recommendation on a project prior to a decision maker's consideration of the project's environmental document shall consider the environmental document in draft or final form. The draft or final environmental document shall be distributed to the advisory body 14 calendar days prior to the scheduled date of recommendation.

(a)(c) Final Environmental Document Distribution to the Decision Maker

~~At least 14 calendar days before the first public hearing or discretionary action on the project, the Planning Director shall make all final environmental documents, including EIR Candidate Findings and Statements of Overriding Consideration if applicable, available to the public and decision makers and shall also mail copies of final environmental documents to the officially recognized community planning groups and members of the public who commented on the draft document.~~  
A decision maker required to consider approval of an environmental document shall consider the environmental document in final form. The

final environmental document shall be distributed to the decision maker at least 14 calendar days prior to the scheduled date of decision.

(d) Failure to provide this 14-calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project ~~when necessary to avoid conflict with time limits imposed by law.~~

(e) Final Environmental Impact Report Distribution to Public Agencies

The Planning Director shall provide a final EIR to any public agency that commented on the draft consistent with CEQA.

(b)(f) Comment on Final Environmental Document

The intent of ~~the~~ distributing the final environmental document ~~final review period~~ is to provide other public agencies, the public, and the decision makers the opportunity to review the final document ~~before the first public hearing or discretionary action on the project~~ prior to a decision being made on the project. No comments will be solicited and no written responses to comments on final environmental documents ~~shall~~ are required to be prepared.

§128.0312 **Adoption of ~~Candidate~~ Findings and Statement of Overriding Considerations by the Decision Maker**

Before approving a project for which the final EIR identifies one or more significant effects, the decision maker shall adopt the required *findings* in accordance with the State CEQA Guidelines, Section 15091. When the decision to approve the project allows the occurrence of significant effects that are identified in the final EIR but are not at least avoided or substantially mitigated, the decision maker shall make a statement of overriding considerations stating the

specific reasons to support the decision based on the final EIR and other information in the record in accordance with the State CEQA Guidelines, Section 15093.

(a) [No change in text.]

(b) Preparation of Adopted Findings and Statement of Overriding Considerations

The adopted *findings* and the statement of overriding considerations shall be in writing and shall be based on the entire record of proceedings.

(c) Availability of Findings and Statement of Overriding Considerations

Where findings or a statement of overriding considerations are required in accordance with Section 128.0312, the Planning Director shall make a draft available to the public and decision maker in accordance with Section 128.0310(c). Failure to provide this 14 calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project.

**§129.0642 Initial Utilization of a Grading Permit**

~~A Grading Permit shall become void if the work authorized by the permit had not begun within 180 calendar days of the date of permit issuance.~~

**§129.0643 Maintaining Utilization of Grading Permit**

~~A Grading Permit shall become void if, at any time after the work has begun, the grading or other work authorized by the Grading Permit is suspended or abandoned for a continuous period of 180 calendar days, unless the Grading Permit is associated with a valid Building Permit.~~

§129.0702 **When a Public Right-of-Way Permit Is Required**

- (a) A Public Right-of-Way Permit is required for the following unless otherwise exempt under Section 129.0703:
- (1) The ~~private~~ construction of *public improvements* by an entity other than the City;
  - (2) through (4) [No change in text.]
- (b) [No change in text.]

§129.0710 **How to Apply for a Public Right-of-Way Permit**

An application for a Public Right-of-Way Permit shall be submitted in accordance with sSections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* or other discretionary approval is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with sSection 126.0402(j) except for the following, which are subject to approval in accordance with Process One:
- (1) through (8) [No change in text.]
  - (b) through (c) [No change in text.]

- (d) A Neighborhood Development Permit decided in accordance with Process Two shall be required for pedestrian plaza encroachments in the public right-of-way which are beyond the established curb line.

§129.0715 Encroachment Maintenance and Removal Agreement

- (a) An Encroachment Maintenance and Removal Agreement is required for any privately-owned and/or privately-maintained facilities or structures encroachment located in the *public right-of-way* or in a *public service easement* ~~constructed and maintained by the property owner~~ subject to the following:
- (1) The *encroachment* shall not adversely affect the public's health, safety, or general welfare and shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner record owner or permit holder, and successors in interest as applicable, to the satisfaction of the City Engineer and ~~shall not adversely affect the public's health, safety or general welfare.~~
  - (2) The ~~property owner~~ record owner or permit holder, as applicable, shall agree to indemnify the City with an indemnification agreement satisfactory to the City Manager and City Attorney.
  - (3) The ~~property owner~~ record owner or permit holder, as applicable, ~~must~~ shall agree to and shall remove or relocate the *encroachment* to the satisfaction of the City Engineer within 30 days after notice by the City Engineer, or the City Engineer may cause such work to

be done, and the costs thereof shall be a lien upon said land, or the ~~property owner~~ record owner or permit holder, as applicable, shall agrees to an equivalent to the requirement for removal as determined by the City Engineer.

(4) For ~~structures encroaching~~ encroachments over or under the ~~public right-of-way~~, the ~~property owner~~ record owner or permit holder, as applicable, shall agrees to and shall provide an alternate ~~public right-of-way~~ or relocation of any existing or proposed City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Engineer that any existing or proposed City facility cannot be economically placed, replaced, or maintained due to the presence of the ~~encroaching structure~~ encroachment.

(5) [No change in text.]

(6) Except as provided in Section 129.0715(a)(7), the ~~property owner~~ record owner or permit holder, as applicable, shall maintain a policy of \$1 million liability insurance, satisfactory to the City Engineer, to protect the City from any potential claims which may arise from the encroachment.

(7) The ~~property owner of an encroachment serving a single dwelling unit~~ For encroachments serving a single dwelling unit, the record owner or permit holder, as applicable, shall maintain a policy of \$500,000 liability insurance, ~~for encroachments serving a single~~

~~dwelling unit~~ satisfactory to the City Engineer to protect the City from any potential claims which may arise from the ~~encroachments~~.

- (8) In the event the City is required to place, replace, or maintain a *public improvement* over which the ~~property owner~~ record owner or permit holder, as applicable, has constructed an ~~encroaching structure~~ encroachment, the ~~property owner~~ record owner or permit holder shall pay the City that portion of the cost of placement, replacement, or maintenance caused by the construction; or existence of the ~~owner's permanent encroaching structure~~ encroachment.
- (9) The ~~property owner~~ record owner or permit holder, as applicable, shall pay the City for all the cost of placing, replacing, or maintaining a *public improvement* within a *public right-of-way* when the City's facility has failed as a result of the construction or existence of the ~~owner's encroaching structure~~ encroachment.
- (10) [No change in text.]
- (11) The ~~property owner~~ record owner or permit holder, as applicable, shall pay the City or public utility, as applicable, for all costs of relocating, replacing, or protecting a facility within the *public right-of-way* or *public service easement* when such relocation, replacement, or protection results from the construction or existence of the *encroachment*.

~~(12)(b) The City may require a record owner or permit holder, as applicable, to record the Encroachment Maintenance and Removal Agreements for approved encroachments shall be recorded in the eOffice of the County Recorder.~~

**§129.0720 Qualifications to Prepare Plans and Perform Construction Work in the Public Right-of-Way or Public Service Easement**

The preparation of plans for and the construction of, work regulated by this division shall only be performed by persons with the following qualifications:

(a) through (e) [No change in text.]

(f) All construction work ~~required~~ regulated by this division shall be performed by a contractor licensed by the State of California, ~~except that~~ with the following exceptions:

(1) ~~a~~ Any person owning property that is or will be that person's primary residence may perform *grading* on that property, ~~and~~

(2) ~~a~~ Any construction work authorized by a Public Right-of-Way Permit as a result of application by a *public utility* may be performed by the *public utility*.

**§129.0743 Initial Utilization of a Public Right of Way Permit**

~~A Public Right of Way Permit shall become void if the work authorized by the permit has not begun within 180 calendar days of the date of permit issuance.~~

**§129.0744 Maintaining Utilization of a Public Right of Way Permit**

~~A Public Right of Way Permit shall become void if, at any time after the work has begun, the work authorized by the permit is suspended or abandoned for a~~

period of 180 calendar days, unless the Public Right of Way Permit is associated with a valid Building Permit.

**§129.0802 When a Sign Permit Is Required**

A Sign Permit is required for the installation or alteration of any *sign*, except for those *signs* specifically exempted in Section 129.0803. ~~Sign Permit Stickers are required for each *sign*. The sticker is applicable to one *sign* at one location only, and is transferable to a new owner or lessee.~~

**§129.0804 General Rules for Sign Permits**

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

(e) ~~A Sign Permit Sticker will be issued for each *sign* for which a Sign Permit is issued. Each sticker is applicable to only one *sign* and for only the location specified in the permit. The sticker is not transferable from one *sign* to another; however, the sticker is transferable to a new owner or lessee. Stickers must be maintained in a legible state.~~

**§129.0806 Sign Permit Fees**

- (a) ~~A fee for each Sign Permit application shall be paid at the time of application. Fees for Sign Permits shall be paid in accordance with the schedule of fees established by resolution of the City Council and filed in the office of the City Clerk.~~
- (b) ~~The City Manager is authorized to issue refunds for all of a portion of the fees, in the event that the work authorized by the Sign Permit has not been performed and no inspections have been made. The refund will be issued within 90 calendar days from the date of permit issuance. Before a refund~~

is issued, the *applicant* shall return the permittee's copy of the issued permit and the Sign Permit Sticker.

**§129.0811 Initial Utilization of a Sign Permit**

~~A Sign Permit shall become void if the work authorized by the permit has not begun within 180 calendar days of the date of permit issuance. If a Sign Permit becomes void before the authorized work has begun, the *applicant* shall apply for a new permit and shall pay the full permit fee.~~

**§129.0812 Maintaining Utilization of a Sign Permit**

~~A Sign Permit shall become void if the work that is authorized by the permit has begun, but is suspended or abandoned for a period of 180 calendar days. If the work is suspended or abandoned for 180 calendar days, a new permit application is required. The permit fee shall be one-half the standard permit fee, provided that no change has been made to the original plans and that the work has not been abandoned or suspended for more than one year.~~

**§129.0813 Expiration of a Sign Permit**

~~A Sign Permit shall expire by limitation and become void 24 months after the date of permit issuance. If the work authorized by the Sign Permit has not been completed and has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued. If a Sign Permit expires, a new permit application, with the full permit fee, is required.~~

**§129.0815 Sign Permit Inspections**

~~All work authorized by a Sign Permit shall be inspected in accordance with Section 129.0111 and the inspection requirements of the Land Development Manual.~~

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

(1) through (5) [No change in text.]

(6) Commercial Services Use Category

This category includes uses that provide for consumer or business services, for the repair and maintenance of a wide variety of products, and for entertainment. The commercial services subcategories are:

(A) through (I) [No change in text.]

~~(J) Assembly and Entertainment - Uses that provide gathering places for large numbers of people for recreation, physical fitness, entertainment, or other assembly.~~

~~(K)~~(J) Radio and Television Studios - Uses that provide for the production, recording, and broadcasting of radio and television shows and motion pictures.

~~(L)~~(K) Visitor Accommodations - Uses that provide lodging, or a combination of lodging, food, and entertainment, primarily

to visitors and tourists. (Outside the Coastal Overlay Zone, includes ~~single-room occupancy~~ SRO hotels.)

- (L) Tasting rooms - Uses accessory to a beverage manufacturing plant that offer tastings and sell beverages manufactured on the premises for on-site or off-site consumption. The subcategory includes establishments such as breweries, wineries, and distilleries that offer tastings and sales of alcoholic beverages in accordance with a license issued by the California Department of Alcoholic Beverage Control. This subcategory does not include uses that qualify as retail tasting stores under Section 141.0507.

(7) through (8) [No change in text.]

- (9) ~~Wholesale, Distribution, and~~ Storage Use Category

This category includes uses that ~~provide and distribute~~ and store goods in large quantities, ~~especially to retail sales establishments.~~

Long-term and short-term storage of commercial goods and personal items is included. The ~~wholesale, distribution, storage~~ subcategories are:

- (A) Equipment and Materials Storage Yards— ~~Uses~~ related to engaged in the outdoor storage of large equipment or products or large quantities of material.

(B) Moving and Storage Facilities — Uses engaged in the moving and storage of household or office furniture, personal items, appliances, and equipment ~~from one location to another, including the temporary storage of those same items.~~

~~(C)~~ Warehouse — Uses engaged in ~~long-term and short-term storage of goods in bulk as well as storage by individuals in separate storage compartments.~~

~~(D)~~(C) Wholesale Distribution Facilities — Uses engaged in the ~~bulk~~ commercial storage and distribution of goods. ~~Wholesale showrooms are also included.~~

(10) Industrial Use Category

This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced. The industrial subcategories are:

(A) Heavy Manufacturing — Uses that process, fabricate, assemble, or treat materials, ~~for the fabrication of large base sector products. Assembly of large equipment and machines is included in this~~

using large outdoor equipment such as cranes and large tanks to produce unpackaged bulk products such as steel, paper, lumber, fertilizer, or petrochemicals. This subcategory as well as includes heavy manufacturing uses that typically produce disturbing noise, dust, or other pollutants capable of harming or annoying adjacent uses.

- (B) Light Manufacturing — Uses that process, fabricate, assemble, treat, or package finished parts or products without the use of explosives or unrefined petroleum materials. (This subcategory does not include the assembly of large equipment and machinery.) This subcategory includes light manufacturing uses that produce a wide variety of products including, but not limited to, food, beverages, durable goods, machinery, or equipment.

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

(11) [No change in text.]

(b) [No change in text.]

§131.0202 Purpose of the OP (Open Space--Park) Zones

- (a) The purpose of the OP zones is to be applied to *public parks* and facilities, ~~once they are dedicated as park land pursuant to City Charter Section 55~~ in order to promote recreation and facilitate the implementation of *land use*

plans. The uses permitted in these zones will provide for various types of recreational needs of the community.

(b) [No change in text.]

§131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B.

Legend for Table 131-02B

[No change in text.]

Table 131-02B  
Use Regulations Table of for Open Space Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-		OC-	OR <sup>(1)</sup> -	OF <sup>(11)</sup> -
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
Open Space through Residential, Separately Regulated Residential Uses:, Watchkeeper Quarters [No change in text.]		[No change in text.]				
<b>Institutional</b>						
<i>Churches &amp; Places of Religious Assembly</i>	P <sup>(2)</sup>	-	-	-	-	-
Institutional, Separately Regulated Institutional Uses through Retail Sales, Separately Regulated Retail Sales Uses:, Retail Farms [No change in text.]		[No change in text.]				
<u>Retail Tasting Stores</u>		=	=	=	=	=
Retail Sales, Separately Regulated Retail Sales Uses:, Swap Meets & Other Large Outdoor Retail Facilities through Commercial Services, Personal Services [No change in text.]		[No change in text.]				
<b>Assembly &amp; Entertainment</b>	P <sup>(2)</sup>	-	-	-	-	-
<b>Radio &amp; Television Studios</b>		[No change in text.]				
<u>Tasting Rooms</u>		=	=	=	=	=
Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments: Sexual Encounter Establishment [No change in text.]		[No change in text.]				

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-		OC-	OR <sup>(1)</sup> -	OF <sup>(11)</sup> -
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly.</u>	L <sup>(2)</sup>	=	=	=	=	=
<u>Commercial Services, Separately Regulated Commercial Services Uses, Bed &amp; Breakfast Establishments through Child Care Facilities, Small Family Child Care Homes</u> [No change in text.]		[No change in text.]				
<u>Eating and Drinking Establishments Abutting Residentially Zoned Property with a Drive-in or Drive-through Component</u>	-	-	-	-	-	-
<u>Fairgrounds through Vehicle &amp; Vehicular Equipment Sales &amp; Service, Separately Regulated Vehicle &amp; Vehicular Equipment Sales &amp; Service Uses, Outdoor Storage &amp; Display of New, Unregistered Motor Vehicles as a Primary Use</u> [No change in text.]		[No change in text.]				
<u>Wholesale, Distribution, and Storage</u>						
<u>Equipment &amp; Materials Storage Yards</u>		[No change in text.]				
<u>Moving &amp; Storage Facilities</u>		[No change in text.]				
<u>Warehouses</u>	-	-	-	-	-	-
<u>Wholesale Distribution Facilities</u>		[No change in text.]				
<u>Separately Regulated Wholesale, Distribution, and Storage Uses:</u>						
<u>Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees</u> [No change in text.]		[No change in text.]				

Footnotes for Table 131-02B [No change in text.]

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131-03B.

Legend for Table 131-03B

[No change in text.]

Table 131-03B  
Use Regulations Table of for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through Residential, Separately Regulated Residential Uses, <i>Boarder &amp; Lodger Accommodations</i> [No change in text.]		[No change in text.]			
Companion Units		-		E <sub>L</sub>	
Residential, Separately Regulated Residential Uses, Employee Housing; through Institutional, Separately Regulated Institutional Uses, Cemeteries, Mausoleums, Crematories [No change in text.]		[No change in text.]			
<i>Churches &amp; Places of Religious Assembly</i>		-		E	
Institutional, Separately Regulated Institutional Uses, Correctional Placement Centers through Retail Sales, Separately Regulated Retail Sales Uses, Retail Farms [No change in text.]		[No change in text.]			
<u>Retail Tasting Stores</u>		=		=	
Retail Sales, Separately Regulated Retail Sales Uses, Swap Meets & Other Large Outdoor Retail Facilities through Commercial Services, <u>Personal Services</u> Separately Regulated Commercial Services Uses [No change in text.]		[No change in text.]			
<u>Assembly &amp; Entertainment</u>		-		-	
Radio & Television Studios		[No change in text.]			
<u>Tasting Rooms</u>		=		=	
Commercial Services, Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments:, Adult Book Store through Sexual Encounter Establishment [No change in text.]		[No change in text.]			

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
		1st & 2nd >>	AG		AR
	3rd >>	1-		1-	
	4th >>	1	2	1	2
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly</u>		-		C	
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments through Separately Regulated Commercial Services Uses, <i>Child Care Facilities</i> , Small Family Child Care Homes [No change in text.]		[No change in text.]			
Eating and Drinking Establishments <u>Abutting Residentially Zoned Property with a Drive-in or Drive-through Component</u>		-		-	
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses, Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>Primary Use</i> [No change in text.]		[No change in text.]			
<u>Wholesale, Distribution, and Storage</u>					
Equipment & Materials Storage Yards		[No change in text.]			
Moving & Storage Facilities		[No change in text.]			
Warehouses		-		-	
<u>Wholesale Distribution Facilities</u>		[No change in text.]			
<u>Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees</u> [No change in text.]		[No change in text.]			

Footnotes for Table 131-03B [No change in text.]

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-	RS-												RX-		RT-						
	3rd >>	1-	1-												1-		1-						
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
<b>Open Space</b> through <b>Institutional</b> [No change in text.]	[No change in text.]																						
<i>Churches &amp; Places of Religious Assembly</i>	-	-												-	-								
<b>Institutional, Separately Regulated Institutional Uses, Airports through Institutional, Separately Regulated Institutional Uses, Correctional Placement Centers</b> [No change in text.]	[No change in text.]																						
<b>Educational Facilities: Educational Facilities:</b>	[No change in text.]																						
<b>Institutional, Separately Regulated Institutional Uses, Educational Facilities: Kindergarten through Grade 12 through Retail Sales, Wearing Apparel &amp; Accessories</b> [No change in text.]	[No change in text.]																						
<b>Separately Regulated Retail Sales Uses</b>	[No change in text.]																						
<b>Retail Sales, Separately Regulated Retail Sales Uses, Agriculture Related Supplies &amp; Equipment through Retail Sales, Separately Regulated Retail Sales Uses, Retail Farms</b> [No change in text.]	[No change in text.]																						
<b>Retail Tasting Stores</b>	=	=												=	=								
<b>Retail Sales, Separately Regulated Retail Sales Uses Swap Meets &amp; Other Large Outdoor Retail Facilities through Commercial Services, Radio &amp; Television Studios</b> [No change in text.]	[No change in text.]																						
<b>Assembly &amp; Entertainment</b>	-	-												-	-								
<b>Tasting Rooms</b>	=	=												=	=								
<b>Visitor Accommodations</b>	[No change in text.]																						

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-	RS-												RX-		RT-						
	3rd >>	1-	1-												1-		1-						
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Commercial Services, Separately Regulated Commercial Services Uses through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments: Sexual Encounter Establishment [No change in text.]		[No change in text.]																					
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly</u>	-	-												-		-							
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments: through <i>Child Care Facilities</i> : [No change in text.]		[No change in text.]																					
<del>Child Care Centers</del> <u>Child Care Centers</u>		[No change in text.]																					
Large Family Child Care Homes		[No change in text.]																					
Small Family Child Care Homes		[No change in text.]																					
Eating and Drinking Establishments Abutting Residentially Zoned Property <u>with a Drive-in or Drive-through Component</u>	-	-												-		-							
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses, Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>Primary Use</i> [No change in text.]		[No change in text.]																					
<del>Wholesale, Distribution, and Storage</del>																							
Equipment & Materials Storage Yards		[No change in text.]																					
Moving & Storage Facilities		[No change in text.]																					
<del>Warehouses</del>	-	-												-		-							
<del>Wholesale Distribution</del> <u>Facilities</u>		[No change in text.]																					

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-	RS-										RX-		RT-								
	3rd >>	1-	1-										1-		1-								
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Separately Regulated Wholesale, Distribution, and Storage Uses																							
Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																					

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Open Space through Institutional [No change in text.]		[No change in text.]												
<i>Churches &amp; Places of Religious Assembly</i>		P			P			P			P		P	
Institutional, Separately Regulated Institutional Uses through Retail Sales, Wearing Apparel & Accessories [No change in text.]		[No change in text.]												
Separately Regulated Retail Sales Uses														
Retail Sales, Separately Regulated Retail Sales Uses, Agriculture Related Supplies & Equipment through Separately Regulated Retail Sales Uses, Retail Farms [No change in text.]		[No change in text.]												
Retail Tasting Stores		=	=	=	=	=	=	=	=	=	=	=		

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-		2-		3-		4-		5-			
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
<b>Retail Sales, Separately Regulated Retail Sales Uses, Swap Meets &amp; Other Large Outdoor Retail Facilities through Commercial Services, Personal Services</b> [No change in text.]		[No change in text.]											
<b>Assembly &amp; Entertainment</b>		-											P
<b>Radio &amp; Television Studios</b>		[No change in text.]											
<b>Tasting Rooms</b>		=											=
<b>Commercial Services, Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments, Adult Book Store through Sexual Encounter Establishment</b> [No change in text.]		[No change in text.]											
<b>Assembly and Entertainment Uses, Including Places of Religious Assembly</b>		L											L
<b>Commercial Services, Separately Regulated Commercial Services Uses, Bed &amp; Breakfast Establishments: through Child Care Facilities, Small Family Child Care Homes</b> [No change in text.]		[No change in text.]											
<b>Eating and Drinking Establishments Abutting Residentially Zoned Property with a Drive-in or Drive-through Component</b>		-											-

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses, Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>Primary Use</i> [No change in text.]		[No change in text.]												
<del>Wholesale, Distribution, and Storage</del>														
Equipment & Materials Storage Yards		[No change in text.]												
Moving & Storage Facilities		[No change in text.]												
<del>Warehouses</del>		-												
<del>Wholesale Distribution Facilities</del>		[No change in text.]												
<del>Separately Regulated Wholesale, Distribution, and Storage Uses</del>														
<del>Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees</del> [No change in text.]		[No change in text.]												

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

§131.0448 Accessory Buildings in Residential Zones

This section is intended to clarify the regulations applicable to non-habitable  
*accessory buildings* in residential zones.

(a) through (b) [No change in text.]

(c) Non-habitable *accessory buildings* or ~~detached~~ garages may encroach into required *yards* subject to the requirements in Section 131.0461.

(d) [No change in text.]

§131.0461 **Architectural Projections and Encroachments in Residential Zones**

(a) The following are permitted *architectural projections* and *encroachments* into required *yards* and the angled *building envelope* plane for RS and RX zones, and the RM-1-1, RM-1-2, and RM-1-3 zones. These projections and *encroachments* are not permitted in the required *yards* within view corridors that are designated by *land use plans* in the Coastal Overlay Zone and may not be located in a required *visibility area* or a required turning radius or vehicle back-up area except where development regulations may allow.

(1) Roof projections such as eave, cornice, and eyebrow projections may extend into the required *yard* or into the space above the angled *building envelope* subject to the following:

(A) through (C) [No change in text.]

(D) ~~The projection~~ A roof design element may project into the space above the required angled building envelope plane, as depicted in Diagram 131-04S, subject to the following provided that the roof design element:

(i) Faces the front yard:

(ii) Does not encroach into any required yard:

- (iii) Complies with all applicable structure height limits in accordance with Section 113.0270; and
- (iv) is limited to a maximum of 33 percent of the width of the *building envelope* facing the front yard, and a maximum depth equal to or less than its width. See Diagram 131-04S.

**Diagram 131-04S**

**Exception for Angled Building Envelope Area**

[No change in text.]

(2) through (11) [No change in text.]

(12) ~~G~~ Garages or non-habitable *accessory buildings* may encroach into a required side or rear *yard* as follows:

(A) The *lot* size shall not exceed 10,000 square feet of area; and

(B) The encroaching *accessory building* shall be limited to a maximum *structure height* of 15 feet within the *setback*; and

(C) The encroaching accessory structure shall not share a common wall with the primary dwelling unit, but may be attached via a non-structural design element. Any development attached to the accessory building above one story shall comply with the setback; and

~~(C)~~ (D) The *accessory building* shall not exceed a maximum length of 30 feet within any given *setback*; and

~~(D)~~(E) An encroaching *accessory building* shall not exceed 525 square feet in *gross floor area*.

(b) [No change in text.]

(c) In the RM-2-4, RM-2-5, RM-2-6, RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, *architectural projections* and *encroachments* listed in Section 131.0461(a) are permitted with the following limitations. No permitted *architectural projection* or *encroachment* may be located in required *yards* within view corridors that are designated by *land use plans* in the Coastal Overlay Zone, in a required *visibility area*, a required turning radius, or vehicle back-up area except where development regulations may allow.

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

(4) Garages or non-habitable *accessory buildings* that meet the requirements in Sections 131.0461(a)(12)(A) through 131.0461(a)(12)~~(D)~~(E) may only encroach into a required side or rear *yard* if they are detached.

(5) [No change in text.]

§131.0522 Use Regulations Table for Commercial Zones

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

Legend for Table 131-05B

[No change in text.]

Table 131-05B  
Use Regulations Table for Commercial Zones

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones										
	1st & 2nd >>	CN <sup>(1)</sup>			CR-		CO-		CV-		CP-	
	3rd >>	1-			1- 2-		1-		1-		1-	
	4th >>	1	2	3	1	1	1	2	1	2	1	
Open Space through Institutional [No change in text.]	[No change in text.]											
<u>Churches &amp; Places of Religious Assembly</u>	P <sup>(40)</sup>			P	P	P		P <sup>(40)</sup>		-		
Institutional, Separately Regulated Institutional Uses, through Retail Sales, Separately Regulated Retail Sales Uses, Retail Farms [No change in text.]	[No change in text.]											
<u>Retail Tasting Stores</u>	L			L	L	L		L		:		
Retail Sales, Separately Regulated Retail Sales Uses, Swap Meets & Other Large Outdoor Retail Facilities through Commercial Services, Business Support [No change in text.]	[No change in text.]											
<u>Eating &amp; Drinking Establishments</u>	P <sup>(4,16)</sup>			P <sup>(16)</sup>	P <sup>(16)</sup>	P <sup>(5,16)</sup>		P <sup>(16)</sup>		-		
Financial Institutions through Personal Services [No change in text.]	[No change in text.]											
<u>Assembly &amp; Entertainment</u>	P <sup>(40)</sup>			P	P	P		P <sup>(40)</sup>		-		
Radio & Television Studios	[No change in text.]											
<u>Tasting Rooms</u>	:			:	:	:		:		:		
Commercial Services, Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments:, Adult Book Store through Sexual Encounter Establishment [No change in text.]	[No change in text.]											
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly</u>	L <sup>(10)</sup>			L	L	L		L <sup>(10)</sup>		:		
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments: through Commercial Services, Separately Regulated Commercial Services Uses, <i>Child Care Facilities</i> :, Small Family Child Care Homes [No change in text.]	[No change in text.]											
<u>Eating and Drinking Establishments Abutting Residentially Zoned Property</u>	L			L	L	L		L		-		
<u>Eating and Drinking Establishments with a Drive-in or Drive-through Component</u>	:			C	:	P		P		P	:	:

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones										
	1st & 2nd >>	CN <sup>(1)</sup>			CR-		CO-		CV-		CP-	
	3rd >>	1-			1- 2-		1-		1-		1-	
	4th >>	1	2	3	1	1	1	2	1	2	1	
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>Primary Use</i> [No change in text.]		[No change in text.]										
<del>Wholesale, Distribution, and Storage</del>												
Equipment & Materials Storage Yards		[No change in text.]										
Moving & Storage Facilities		[No change in text.]										
<del>Warehouses</del>		-	-	P <sup>(9)</sup>	-	-	-					
<del>Wholesale Distribution Facilities</del>		[No change in text.]										
Separately Regulated <del>Wholesale, Distribution, and Storage Uses</del>												
<del>Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees</del> [No change in text.]		[No change in text.]										

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																																		
	1st & 2nd >>	CC-																																		
	3rd >>	1-			2-			3-			4-			5-																						
	4th >>	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2
Open Space through Institutional [No change in text.]		[No change in text.]																																		
<del>Churches &amp; Places of Religious Assembly</del>		P	P	P	P	P	P																													
Institutional, Separately Regulated Institutional Uses, Airports through Retail Sales, Separately Regulated Retail Sales Uses, Retail Farms [No change in text.]		[No change in text.]																																		
<del>Retail Tasting Stores</del>		L	L	L	L	L	L																													
Retail Sales, Separately Regulated Retail Sales Uses, Swap Meets & Other Large Outdoor Retail Facilities through Commercial Services, Business Support [No change in text.]		[No change in text.]																																		
Eating & Drinking Establishments		P <sup>(16)</sup>	P <sup>(16)</sup>	P <sup>(16)</sup>	P <sup>(16)</sup>	P <sup>(16)</sup>	P <sup>(16)</sup>																													

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																			
	1st & 2nd >>	CC-																			
	3rd >>	1-	2-	3-	4-	5-															
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5		
Commercial Services, Financial Institutions through Personal Services [No change in text.]	[No change in text.]																				
<del>Assembly &amp; Entertainment</del>	P	P	P	P	P																
Radio & Television Studios	[No change in text.]																				
<u>Tasting Rooms</u>	<u>(17)</u>	<u>(17)</u>	<u>(17)</u>	<u>(17)</u>	<u>(17)</u>	P <sup>(17)</sup>															
Commercial Services, Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments:, Adult Book Store, Sexual Encounter Establishment [No change in text.]	[No change in text.]																				
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>																
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments: through Commercial Services, Separately Regulated Commercial Services Uses, <i>Child Care Facilities</i> :, Small Family Child Care Homes [No change in text.]	[No change in text.]																				
Eating and Drinking Establishments <u>Abutting Residentially Zoned Property with a Drive-in or Drive-through Component</u>	<u>LP</u>	<u>LP</u>	<u>LP</u>	<u>LP</u>	<u>LP</u>																
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses, Automobile Service Stations [No change in text.]	[No change in text.]																				
Outdoor Storage & Display of New, <del>Un</del> Registered Motor Vehicles as a <del>p</del> Primary <del>u</del> Use	[No change in text.]																				
<del>Wholesale, Distribution, and Storage</del>																					
Equipment & Materials Storage Yards	[No change in text.]																				
Moving & Storage Facilities	[No change in text.]																				
Warehouses	-	-	-	P <sup>(6)</sup>	P <sup>(6)</sup>																
<del>Wholesale Distribution Facilities</del>	[No change in text.]																				

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																			
		1st & 2nd >>	CC-																		
	3rd >>	1-	2-	3-	4-	5-															
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5		
<del>Separately Regulated Wholesale, Distribution, and Storage Uses</del>																					
<del>Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees</del> [No change in text.]		[No change in text.]																			

Footnotes to for Table 131-05B

- <sup>1</sup> Uses shall not begin operating before 6:00 a.m. or continue operating later than 12:00 midnight in Commercial-Neighborhood (CN) zones.
- <sup>2</sup> through <sup>3</sup> [No change in text.]
- <sup>4</sup> Drive-in and drive-through restaurants, live Live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the Commercial-Neighborhood (CN) zones, unless approval of a deviation is granted via a Planned Development Permit in accordance with Section 126.0602(b)(1).
- <sup>5</sup> through <sup>9</sup> [No change in text.]
- <sup>10</sup> This use is not allowed within the Coastal Overlay Zone, except that assembly and entertainment uses may be incorporated as an accessory use to visitor accommodations.
- <sup>11</sup> through <sup>15</sup> [No change in text.]
- <sup>16</sup> Eating and drinking establishments abutting residential development located in a residential zone may operate only between 6:00 a.m. and 12:00 midnight.
- <sup>17</sup> Tasting rooms are only permitted as an accessory use to a beverage manufacturing plant.

**§131.0540 Maximum Permitted Residential Density and Other Residential Regulations**

The following regulations apply to residential *development* within commercial zones where indicated in Table ~~131-04B~~ 131-05B:

(a) through (f) [No change in text.]

**§131.0622 Use Regulations Table for Industrial Zones**

The uses allowed in the industrial zones are shown in Table 131-06B.

**Legend for Table 131-06B**

[No change in text.]

Table 131-06B  
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Open Space through Institutional [No change in text.]		[No change in text.]									
<i>Churches &amp; Places of Religious Assembly</i>	-	-	-	-	P <sup>(11,16)</sup>	P <sup>(16)</sup>	-	-	P <sup>(12,16)</sup>	-	-
Institutional, Separately Regulated Institutional Uses through Retail Sales, Separately Regulated Retail Sales Uses, Retail Farms [No change in text.]		[No change in text.]									
<u>Retail Tasting Stores</u>	=	=	=	L	L	L	=	=	L	=	=
Retail Sales, Separately Regulated Retail Sales Uses, Swap Meets & Other Large Outdoor Retail Facilities through Commercial Services, Business Support [No change in text.]		[No change in text.]									
<u>Eating &amp; Drinking Establishments</u>	-	P <sup>(7,18)</sup>	P <sup>(7,18)</sup>	P <sup>(7,18)</sup>	P <sup>(7,18)</sup>	P <sup>(18)</sup>	-	P <sup>(7)</sup>	P <sup>(4,18)</sup>	P <sup>(7,18)</sup>	-
Commercial Services, Financial Institutions through Personal Services [No change in text.]		[No change in text.]									
<u>Assembly &amp; Entertainment</u>	-	-	-	-	P <sup>(11,16)</sup>	P <sup>(16)</sup>	-	-	P <sup>(12,16)</sup>	-	-
<u>Radio &amp; Television Studios</u>		[No change in text.]									
<u>Tasting Rooms</u>	P <sup>(20)</sup>	P <sup>(20)</sup>	- <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>	P <sup>(20)</sup>
Commercial Services, Visitor Accommodations through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments, Sexual Encounter Establishment [No change in text.]		[No change in text.]									
<u>Assembly and Entertainment Uses, Including Places of Religious Assembly</u>	-	-	-	-	L	L	-	-	L	-	-
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments through Commercial Services, Separately Regulated Commercial Services Uses, <del>Child Care Facilities</del> , Small Family Child Care Homes Camping Parks [No change in text.]		[No change in text.]									
<i>Child Care Facilities:</i>											
Child Care Centers	L <sub>C</sub>	L <sub>C</sub>	L <sub>C</sub>	-	L <sub>C</sub>	L <sub>C</sub>	-	L <sub>C</sub>	L <sub>C</sub>	L <sub>C</sub>	L <sub>C</sub>
Large Family Child Care Homes through Small Family Child Care Homes [No change in text.]		[No change in text.]									

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones									
	1st & 2nd >>		IP-			IL-			IH-		IS-	IBT-
	3rd >>		1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>		1	1	1	1	1	1	1	1	1	1
Eating and Drinking Establishments Abutting Residentially Zoned Property with a Drive-in or Drive-through Component	-	-C	-C	-C	-C	LP	-	-C	-	-C		
Commercial Services, Separately Regulated Commercial Services Uses, Fairgrounds through Vehicle & Vehicular Equipment Sales & Service, Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses, Automobile Service Stations [No change in text.]	[No change in text.]											
Outdoor Storage & Display of New, Unregistered Motor Vehicles as a Primary Use	[No change in text.]											
Wholesale, Distribution, and Storage												
Equipment & Materials Storage Yards	[No change in text.]											
Moving & Storage Facilities	[No change in text.]											
Warehouses	-	-	-	P	P	P	P	P	P	P	P	
Wholesale Distribution Facilities	-P <sup>(19)</sup>	P	-	P	P	P	P	P	P	P	P	
Separately Regulated Wholesale, Distribution, and Storage Uses												
Wholesale, Distribution, and Storage, Separately Regulated Wholesale, Distribution, and Storage Uses, Impound Storage Yards through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]											

Footnotes for Table 131-06B

<sup>1</sup> through <sup>17</sup> [No change in text.]

<sup>18</sup> Eating and drinking establishments abutting residential development located in a residential zone may operate only between 6:00 a.m. and 12:00 midnight.

<sup>19</sup> Distribution facilities are permitted in the IP-1-1 zone only within the Otay Mesa Community Plan area.

<sup>20</sup> Tasting rooms are only permitted as an accessory use to a beverage manufacturing plant.

§131.0623 Additional Use Regulations of Industrial Zones

The additional use regulations identified in this section are applicable to uses where indicated in Table 131-06B.

(a) [No change in text.]

- (b) Eating and drinking establishments are permitted subject to the following:
- (1) [No change in text.]
  - (2) No live entertainment is permitted on the a premises in an IH zone or on any premises abutting a residential zone; and
  - (3) ~~No~~ Establishments with drive-in or drive-through services are permitted subject to Section 141.0607; and
  - (4) Establishments abutting residential zones may operate only between 6:00 a.m. and midnight.
- (c) through (d) [No change in text.]
- (e) Light manufacturing and assembly uses in the IP-1-1 zone and IP-3-1 zone are limited to the following:
- (1) through (5) [No change in text.]
  - (6) Manufacturing of biological, biomedical, and pharmaceutical products; and
  - (7) Manufacturing of scientific, engineering, and medical instruments; and
  - (8) Within the IP-1-1 zone only, beverage and food manufacturing and production. Beverage manufacturing operations may include a tasting room as an accessory use.
- (f) through (j) [No change in text.]

§141.0302 Companion Units

A companion unit is a *dwelling unit* that is an *accessory use* for a *single dwelling unit* on a residential *lot* that provides complete living facilities, including a

kitchen, independent of the primary *dwelling unit*. Companion units are permitted as a limited use in accordance with Process One in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations:

(a) through (i) [No change in text.]

~~(j)~~ ~~Access to the off street parking from an unimproved alley is not permitted.~~

~~(k)~~(i) The *gross floor area* of the companion unit shall be included in the *floor area ratio* calculation for the *premises*.

~~(l)~~(k) The *gross floor area* of the companion unit shall not exceed 700 square feet.

~~(m)~~(l) One 24-inch box tree shall be planted in the required front *yard* of the *premises* or in the abutting *parkway*. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.

~~(n)~~(m) Maximum *structure height* for companion units:

(1) through (2) [No change in text.]

~~(o)~~(n) Companion unit entrances shall not be located on the building *street wall* or within the front 50 percent of the *structure*.

~~(p)~~ The companion unit shall be constructed with the same siding and roofing materials as the *primary dwelling unit*.

~~(q)~~(o) Within the Coastal Overlay Zone, companion units are subject to the provisions of Chapter 12, Article 6, Division 7.

§141.0405 **Satellite Antennas**

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

(a) Exemption. ~~Satellite antennas that are 5 feet in diameter or smaller are permitted in all zones and~~ The following satellite antennas are exempt from the requirements under Sections 141.0405 and 141.0420:

(1) Satellite antennas that are 5 feet in diameter or smaller; and

(2) In industrial zones, satellite antennas that are accessory uses.

(b) Limited Use Regulations. Satellite antennas that exceed 5 feet in diameter are permitted as a limited use in zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations<sup>22</sup>:

(1) through (4) [No change in text.]

(5) Ground-mounted satellite antennas shall not be located in the ~~street yard~~ street yard, front yard yard, or street ~~street~~ street side yard yard of a premises premises.

(6) through (8) [No change in text.]

(c) [No change in text.]

(d) Conditional Use Permit Regulations. ~~Except for satellite antennas which are accessory uses in industrial zones,~~ where exempt in accordance with Section 141.0405(a)(2), satellite antennas that exceed 10 feet in diameter

may be permitted only with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations:

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

**§141.0411 Historical Buildings Occupied by Uses Not Otherwise Allowed**

*Historical buildings* occupied by uses not otherwise allowed may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) through (b) [No change in text.]

(c) The use of the building shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed. In order to minimize detrimental effects to neighboring properties, any proposed separately regulated uses in a historical building shall comply with the regulations in Chapter 14, Article 1 (Separately Regulated Use Regulations).

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

**§141.0504 Plant Nurseries**

For the purpose of Section 141.0504, plant nurseries are commercial establishments where plants are cultivated and grown for transplant, distribution, and sale that have a sales transaction area greater than 300 square feet. Plant nurseries are permitted in the zones indicated with a "P" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Plant nurseries may be permitted with a Conditional Use Permit decided in accordance with Process Three in the

zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) through (b) [No change in text.]
- (c) Off-street parking shall be provided at a level sufficient to serve the facility establishment without impacting adjacent or nearby property.
- (d) Section 141.0504 shall not apply to the sale of plants from a garden center or other retail store, which is permitted in zones that allow the sale of consumer goods.

**§141.0507**     **Retail Tasting Stores**

Retail tasting stores are branch locations of an affiliated licensed beer manufacturer, which sell or deliver alcoholic beverages produced by that manufacturer. Consumption of the applicable beverage may be on or off the premises of the retail tasting store. Retail tasting stores are establishments with Duplicate Type 1 Beer Manufacturer Licenses or a Duplicate Type 23 Small Beer Manufacturer Licenses issued by the California Department of Alcoholic Beverage Control. This Section does not apply to tasting rooms located on the premises of a licensed beer manufacturer. No beer manufacturing shall occur on the premises of the retail tasting store.

Retail tasting stores are permitted as a limited use in the zones indicated with a "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following:

- (a) Off-street parking shall be provided in accordance with Section 142.0530 Table 142-05E (Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development); and
- (b) Retail tasting stores shall not operate between 12:00 midnight and 6:00 a.m. in CN zones or on premises abutting residentially zoned property.

§141.0602 Assembly and Entertainment Uses, Including Places of Religious Assembly

This use category applies to facilities designed to accommodate at least 25 people at a time for recreation, physical fitness, entertainment, or other assembly, including places of religious assembly. Assembly and entertainment uses are permitted as a limited use in accordance with Process One in zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (b). Assembly and entertainment uses may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Sections 141.0602(a) and (c).

(a) General Regulations

- (1) Assembly and entertainment uses are not permitted:
  - (A) Within the MHPA;
  - (B) Within floodplains located in the Coastal Overlay Zone; or
  - (C) On a premises that is identified as Prime Industrial Land in a land use plan.

- (2) Assembly and entertainment uses shall provide off-street parking according to the following:
- (A) If the specific type of assembly and entertainment use is specified in Table 142-05G, the applicable off-street parking standard in Table 142-05G shall apply.
- (B) If the specific type of assembly and entertainment use is not specified in Table 142-05G, off-street parking shall be provided as follows:
- (i) If seating is fixed, one parking space shall be provided per three seats in the assembly area or one parking space per 60 inches of bench or pew seating space, whichever is greater.
- (ii) If seating is not fixed, 30 parking spaces shall be provided per 1,000 square feet of assembly area.
- (3) Auditoriums that are an accessory use to professional office or industrial development are not subject to Section 141.0602.

(b) Limited Use Regulations

- (1) The facility shall be designed to accommodate a maximum of 300 people.
- (2) Assembly and entertainment facilities adjacent to residentially zoned property shall not operate between 10:00 p.m. and 6:00 a.m., except that such facilities may operate until 11:00 p.m. on Fridays

and Saturdays. Places of religious assembly shall not be subject to the limitations of Section 141.0602(b)(2).

- (3) Parking shall be accommodated on-site.
- (4) Deviations from Section 141.0602(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three.

(c) Conditional Use Regulations

The decision maker shall consider, and may impose conditions to address, the following:

- (1) Hours of operation shall be limited to minimize disturbance to neighboring *development* from noise and lights.
- (2) Structures shall be placed on the site so that larger or high-activity buildings are away from adjacent property with smaller *structures* and lower levels of activity.
- (3) Off-street parking areas shall be located away from adjacent residential property whenever feasible to minimize disturbance to neighboring *development*.
- (4) The maximum capacity, including limits on the intensity of *accessory uses*, shall be limited to a level commensurate with the size of the *premises*, the intensity of surrounding *development*, and the capacity of *streets* serving the facility.
- (5) Structures shall be designed to incorporate a variety of architectural elements that diminish bulk.

§141.0607 ~~Eating and Drinking Establishments Abutting Residentially Zoned Property~~

~~Eating and drinking establishments on premises abutting residential zones are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0607(a). Eating and drinking establishments abutting residentially zoned property that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the regulations in Section 141.0607(b).~~

(a) ~~Limited Use Regulations~~

- ~~(1) Eating and drinking establishments abutting residential zones may operate only during the hours between 6:00 a.m. and 12:00 midnight.~~
- ~~(2) In the IL-3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).~~
- ~~(3) Drive-in and drive-through restaurants, live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.~~

(b) ~~Neighborhood Use Permit Regulations. Except in the CN zones, eating and drinking establishments abutting residential zones that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the following regulations.~~

- (1) All activities associated with the establishment shall occur within an enclosed building between the hours of 12:00 midnight and 6:00 a.m.
- (2) Drive-up or drive-through service is not permitted between the hours of 12:00 midnight and 6:00 a.m.
- (3) Live entertainment is not permitted between the hours of 12:00 midnight and 6:00 a.m.
- (4) The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises.
- (5) In the IL 3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).

§141.0607 Eating and Drinking Establishments with Drive-in or Drive-through Service  
Eating and drinking establishments that offer drive-in or drive-through service are permitted in zones indicated with a "P" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Eating and drinking establishments that offer drive-in or drive-through service may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the regulations in this Section. The Conditional Use Permit decision maker shall consider whether the proposed use minimizes adverse impacts on adjacent properties and surrounding neighborhoods. The decision maker may impose

conditions in the Conditional Use Permit in addition to requiring compliance with the following:

- (a) A pedestrian and vehicular circulation plan shall be provided to ensure public safety.
- (b) Space for vehicle queuing for the drive-in or drive-through service shall be provided as follows:
  - (1) Queue space for a minimum of five cars shall be provided for each drive-up service window or position, as measured from the food and beverage pick-up window or position. The queue space for each car shall be 10 feet wide and 20 feet long, in accordance with Section 142.0560(i).
  - (2) Required queue spaces shall not obstruct access to parking aisles or parking spaces.
- (c) Hours of operation shall be limited as appropriate for the location.
- (d) Noise reduction techniques shall be incorporated, including measures to ensure that speaker systems are not audible beyond the *property line*.
- (e) A lighting control plan shall be provided to minimize potential off-site impacts.
- (f) A litter control plan to keep the *premises* free of litter and to prevent litter attributable to the establishment from occurring on adjacent properties shall be provided.

- (g) The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises.

§141.0619 Pushcarts

This sSection regulates pushcarts on private property and pushcarts in the *public right-of-way*. Pushcarts are moveable, wheeled, non-motorized vehicles used by vendors for the sale of food or beverage products, fresh-cut flowers, or live plants in pots. Pushcarts are a health-regulated business subject to Section 42.0102.

(a) Pushcarts on Private Property

Pushcarts are permitted on private property as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) through (4) [No change in text.]

(5) ~~The operation of the pushcart shall be in conformance with Municipal Code Sections 42.0160 through 42.0167.~~

(b) Pushcarts in the *Public Right-of-Way*

Pushcarts may be permitted in the *public right-of-way* with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) [No change in text.]

(2) The decision maker will consider the appropriateness of the pushcart design and color scheme, *signs*, and graphics for the

products for sale and the proposed location. ~~This provision  
supersedes Municipal Code Section 42.0163(Q).~~

(3) through (11) [No change in text.]

(12) Pushcarts shall not be left unattended, nor shall they remain in the *public right-of-way* between 12:00 midnight and 6:00 a.m. except for special events as provided for in ~~Municipal Code Section 42.0130.1 Chapter 2, Article 2, Division 40 (Special Events).~~

(13) ~~The operation of the pushcart shall be in conformance with  
Municipal Code Sections 42.0160 through 42.0167.~~

(14)(13) An *applicant* that has received a Neighborhood Use Permit for a pushcart shall have an operating cart on the specified site within 60 calendar days of approval or the permit will be void.

(15)(14) The permit is valid only when used at the location designated on the permit. The permit shall be displayed in a prominent and visible place on the pushcart.

(16)(15) A Neighborhood Use Permit for a pushcart may not be transferred, but there may be more than one *applicant* for a single permit.

(16) A Neighborhood Use Permit for a pushcart can be revoked or modified in accordance with Sections 121.0313 through 123.0316.

(18) ~~A Neighborhood Use Permit for a pushcart can be revoked on any  
of the grounds listed in Municipal Code Section 42.0168.~~

§141.1003 **Marine-Related Uses in the Coastal Zone**

Marine-related uses in the Coastal Overlay Zone are permitted in zones indicated with a "P" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones).

Marine-related uses in the Coastal Overlay Zone may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

§141.1105 **Signs with Automatic Changing Copy**

Signs with automatic changing copy may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Section 141.1105 does not apply to automobile service station gasoline pricing signs designed in accordance with state law.

(a) through (e) [No change in text.]

§142.0305 **When Fence Regulations Apply**

(a) [No change in text.]

(b) Table 142-03A shows the applicable regulations and the type of permit required by this dDivision, if any, for specific types of *fences*.

Table 142-03A  
Fence Regulations Applicability

TYPE OF DEVELOPMENT PROPOSAL	APPLICABLE REGULATIONS	REQUIRED PERMIT TYPE/ DECISION PROCESS
Any <i>fence</i> with a height less than 6 feet	Sections <u>129.0203</u> , 142.0310-142.0330, 142.0360-142.0380	[No change in text.]
Any <i>fence</i> with a height of 6 feet or greater	[No change in text.]	[No change in text.]
Any <i>retaining wall</i> with a height less than 3 feet	Sections <u>129.0203</u> , 142.0340, 142.0370, 142.0380	[No change in text.]
Any <i>retaining wall</i> with a height of 3 feet or greater through Any <i>fence</i> or <i>retaining wall</i> located on <del>premises</del> <u>premises</u> that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731.	[No change in text.]	[No change in text.]

§142.0310 General Fence Regulations for All Zones

(a) Location and Height of *Fences*

- (1) No portion of a *fence* shall extend beyond the *property line* of the *premises* into the *public right-of-way* ~~unless an~~ without a Public Right-of-wWay pPermit has been obtained.

(2) through (3) [No change in text.]

(b) through (e) [No change in text.]

§142.0340 Retaining Wall Regulations in All Zones

(a) through (b) [No change in text.]

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

(1) through (2) [No change in text.]

- (3) *Retaining walls* of 3 feet in height or greater shall have at least one horizontal or vertical offset for each 120 square feet of wall area, except where otherwise provided in Section 142.0340(f). The horizontal or vertical offset shall be at least 12 inches wide with a minimum reveal of 4 inches. See Diagram 142-03B.

(d) through (e) [No change in text.]

(f) Exceptions to *Retaining Wall* Height

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

(4) When the elevation of the adjacent *street grade* is higher than the building pad, the following shall apply:

(A) The portion of the *retaining wall* located at or below the adjacent *street grade* is not subject to Section

142.0340(c)(3); and

(B) Measurement of any portion of the wall or attached *fence* above *grade* shall be taken from the adjacent *grade* on the higher side of the *retaining wall*.

§142.0530 Nonresidential Uses — Parking Ratios

(a) through (b) [No change in text.]

(c) Nonresidential Uses. Table 142-05G establishes the required ratio of parking spaces to building *floor* area for the nonresidential uses shown that are not covered by the parking requirements in Section 142.0530(a) and (b).

Table 142-05G  
Parking Ratios for Specified Non-Residential Uses

Use	Parking Spaces Required per 1,000 Square Feet of Floor Area Unless Otherwise Noted ( <i>Floor Area</i> Includes <i>Gross Floor Area</i> plus below <i>Grade Floor Area</i> , and Excludes <i>Floor Area</i> Devoted to Parking)		
	Required Automobile Parking Spaces <sup>(1)</sup>		
	Minimum Required Outside a <i>Transit Area</i>	Minimum Required Within a <i>Transit Area</i> <sup>(2)</sup>	Maximum Permitted
Institutional through Institutional, Separately <del>r</del> Regulated <del>u</del> Uses, Botanical Gardens and Arboretums [No change in text.]	[No change in text.]		
<i>Churches</i> and places of religious assembly	1 per 3 seats; or 1 per 60 inches of pew space; or 30 per 1,000 square feet assembly area if seating is not fixed	85% of Minimum	N/A
Institutional, Separately <del>r</del> Regulated <del>u</del> Uses, Educational facilities: through Eating & Drinking Establishments [No change in text.]	[No change in text.]		
Public assembly & entertainment, Theaters through Public assembly & entertainment, Swimming pools [No change in text.]	[No change in text.]		
All other public assembly and entertainment	1 per 3 seats or 1 per 60 inches of bench or pew seating, whichever is greater; or 30.0 per 1,000 square feet of assembly area if no fixed seats seating is not fixed	85% of Minimum	N/A
Visitor accommodations through Vehicle & Vehicular Equipment Sales & Service, Vehicle sales & rentals [No change in text.]	[No change in text.]		

Wholesale, Distribution, and Storage <sup>(4)</sup>			
All wholesale, distribution and storage uses	1.0 <sup>(5)</sup>	1.0 <sup>(5)</sup>	4.0
Self Storage Facilities	[No change in text.]		
Industrial			
Heavy Manufacturing <del>Heavy Manufacturing</del> (except in IS Zone)	1.5 <sup>(6)</sup>	1.5 <sup>(6)</sup>	4.0
Light manufacturing (except in IS Zone)	2.5 <sup>(6)</sup>	2.1 <sup>(6)</sup>	4.0
Industrial, Research & development (except in IS Zone) through Industrial, All industrial uses in the IS Zone [No change in text.]	[No change in text.]		

Footnotes For Table 142-05G

<sup>(1)</sup> through <sup>(5)</sup> [No change in text.]

<sup>(6)</sup> Facilities with a majority of floor area dedicated to large equipment, tanks, vessels, and automated machinery, or any similar combination of equipment may provide parking using a minimum ratio of 1.0 parking space per 1,000 square feet of floor area instead of the parking ratio shown in Table 142-05G.

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

§142.0560 Development and Design Regulations for Parking Facilities

(a) through (i) [No change in text.]

(j) Driveway and Access Regulations

(1) through (8) [No change in text.]

(9) Driveway Gradient Regulations

(A) through (B) [No change in text.]

(C) For driveways driveway ramps with a gradient greater than 14 percent up to the maximum permitted gradient of 20 percent, there shall be transitions for the first and last 8 feet

of the ramp. The transitions shall not exceed one-half of the abutting slope of the driveway ramp, as illustrated in Diagram 142-05D.

**Diagram 142-05D**

**Maximum Driveway Ramp Slope**

[No change in text.]

(10) [No change in text.]

(k) [No change in text.]

**§142.0670 Standards for Public Improvements**

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

(e) Street lights are a public improvement only required as a condition of approval for a subdivision map and shall be constructed in accordance with the standards established in the Land Development Manual.

(f) [No change in text.]

**§142.0910 Mechanical and Utility Equipment Screening Regulations**

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

(d) Equipment and appurtenances associated with industrial development that is classified as a manufacturing use shall be exempt from the screening requirements in Section 142.0910(a) and (b) if located on a premises that is not abutting residentially zoned property.

**§142.1206 Violations of Sign Regulations**

(a) It is unlawful to do the following:

(1) [No change in text.]

- (2) Place any lettering, card, poster, or notice of any kind on any curb, sidewalk, *street*, pole, post, utility box, hydrant, bridge, tree, building, or other surface that is located on public property or in the *public right-of-way* unless otherwise provided in the Municipal Code or specific state statute; or
- (3) Display any *sign* without the required Sign Permit Sticker; or
- (4)(3) Erect any *sign* on any *premises* contrary to the provisions of this Division.
- (b) [No change in text.]

§142.1208 Signs in Commercial and Industrial Developments

- (a) Where the *development permit* for a commercial or industrial *development* specifies a *sign* requirement, *signs* that meet the Land Development Code regulations for *signs* may nevertheless be approved in accordance with Process One without an amendment to that *development permit*, except as follows:
- (1) Any *sign* that is subject to a *development permit* in accordance with the following separately regulated use regulations (Chapter 14, Article 1):
- (A) Comprehensive *sign* plans (Section 141.1103) adopted January 1, 2000 or later;
- (B) Revolving *projecting signs* (Section 141.1104);
- (C) *Signs* with automatic changing copy (Section 141.1105);
- and

(D) Theater marquees (Section 141.1106).

(2) A sign that involves an alteration to the building where the building alteration would not be in substantial conformance to the applicable development permit; and

(3) Any proposal that involves an advertising display sign.

(b) New signs for commercial or industrial development with a comprehensive sign plan adopted prior to January 1, 2000 may be approved in accordance with Process One if the proposed signs comply with the current Land Development Code regulations for signs.

§142.1210 General Sign Regulations

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

(a) Copy Regulations

(1) [No change in text.]

(2) Signs may have changeable copy, such as letters, numbers, symbols, pictorial panels, and other similar characters. Changeable copy shall be manually or mechanically changeable only in the field and not remotely or electronically changeable, except for the following signs:

(A) Public service messages in compliance with Section 142.1220(f); and

(B) *Signs* with automatic changing copy may be permitted with a Neighborhood Use Permit in compliance with Section 141.1105; and

(C) Automobile service station gasoline pricing signs designed in accordance with state law.

(3) through (10) [No change in text.]

(b) through (c) [No change in text.]

(d) *Sign Maintenance Regulations*

All *signs* shall comply with the following maintenance regulations whether or not a Sign Permit is required.

(1) through (4) [No change in text.]

(5) ~~A Sign Permit Sticker shall be provided for each *sign* that is required to receive a Sign Permit. The sticker shall bear an assigned number that is used to identify the *sign*. No *sign* may be displayed without the required Sign Permit Sticker.~~

(6) ~~The Sign Permit Sticker shall be installed on the lower right corner of the *sign* or other location as directed by the City Manager so that it is visible from the *public right-of-way* or some equally accessible place.~~

(7) ~~Owners of newly annexed property shall obtain Sign Permit Stickers for existing *signs* located on the property within 3 months after the effective date of the annexation.~~

§142.1220 Primary Sign Regulations

(a) through (b) [No change in text.]

(c) Table 142-12B identifies under what conditions certain types of primary *signs* are permitted in the commercial and industrial zones and the relationship among the sizes of primary *signs*. Allowances may be based on establishment, *premises*, or *street frontage*. This table presents primary *sign* type relationships only and should not be used to calculate allowable *sign* area or number of *signs* allowed. Refer to sections identified in Table 142-12A for regulations.

Table 142-12B  
Permitted Primary Signs

Sign Types	Category A General Citywide Commercial and Industrial Zones	Category B CO and IP Zones	Category C CN and Commercial and Industrial Zones in the Coastal Overlay Zone
<p><i>Wall Signs</i> (See regulations in Section 142.1225)</p>	<p>Minimum of One <i>Sign</i> per Establishment</p> <p>Number and square footage of <i>wall signs</i> is limited only by the area calculation which is based on establishment's <i>street wall, public right-of-way</i> width, and <i>street</i> speed limit. The permitted <i>sign copy area</i> is reduced by the addition of <del>roof, projecting, or ground signs</del> <u>roof signs or projecting signs.</u></p>	<p>Minimum of One <i>Sign</i> per Establishment</p> <p>Number and square footage of <i>wall signs</i> is limited only by the area calculation which is based on establishment's <i>street wall, public right-of-way</i> width, and <i>street</i> speed limit. The permitted <i>sign copy area</i> is reduced by the choice of <del>projecting or ground signs</del> <u>projecting signs,</u> with a maximum display area limitation.</p>	<p>Minimum of One <i>Sign</i> per Establishment</p> <p>Number and square footage of <i>wall signs</i> is limited only by the area calculation which is based on establishment's <i>street wall, public right-of-way</i> width, and <i>street</i> speed limit. The permitted <i>sign copy area</i> is reduced by the choice of <del>projecting or ground signs</del> <u>projecting signs,</u> with a maximum display area limitation.</p>
<p><i>Projecting Signs</i> (See regulations in Section 142.1230) through <i>Roof Signs</i> (See regulations in Section 142.1235) [No change in text.]</p>	<p>[No change in text.]</p>		

Sign Types	Category A General Citywide Commercial and Industrial Zones	Category B CO and IP Zones	Category C CN and Commercial and Industrial Zones in the Coastal Overlay Zone
<p><i>Ground Signs</i> (See regulations in Section 142.1240)</p>	<p>One <del>S</del>sign per <del>Frontage</del> <u>street frontage</u> for <del>Each</del> <u>Premises Having Street Frontage</u> <del>each premises</del> <u>having street frontage</u>. The <del>Number Increases</del> <u>number of signs increases as Frontage Increases</u> <u>street frontage increases</u>.</p> <p><i>Ground signs</i> are permitted in lieu of <i>roof signs</i> and <i>projecting signs</i>; however, one <i>projecting sign</i> may replace one <i>ground sign</i> when more than one <i>ground sign</i> is allowed on the <i>premises</i>. In addition, one of the <i>ground signs</i> may revolve when more than one <i>ground sign</i> is allowed. The permitted <i>sign</i> area for <i>ground signs</i> is based on <i>street wall</i>, <i>public right-of-way</i> width, and <i>street</i> speed limit. The use of a <i>ground sign</i> on a <i>premises</i> reduces the allowable <del>wall sign copy area</del> for that <i>premises</i>.</p>	<p>One <del>S</del>sign per <del>Premises</del> <u>premises</u> per <del>Frontage</del> <u>street frontage</u> with a <del>Minimum</del> <u>minimum</u> of 100 Feet <del>feet</del> in <del>Street</del> <u>Frontage</u>.</p> <p><i>Ground signs</i> are permitted in lieu of <i>projecting signs</i>. The area is based on <i>street wall</i>, <i>public right-of-way</i> width, and <i>street</i> speed limit, with a maximum display area limitation.</p>	<p>One <del>S</del>sign per <del>Premises</del> <u>premises</u> per <del>Street Frontage</del> <u>street frontage</u>.</p> <p><i>Ground signs</i> are permitted in lieu of <i>projecting signs</i>. The area is based on <i>street wall</i>, <i>public right-of-way</i> width, and <i>street</i> speed limit, with a maximum display area limitation.</p>

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

§142.1225 Wall Signs in Commercial and Industrial Zones

The following regulations apply to *wall signs* in all commercial and industrial zone *sign* categories, unless otherwise indicated.

- (a) A minimum of one *wall sign* per establishment is permitted. *Wall signs* are permitted alone or in combinations with other *primary signs*; however, the maximum permitted *wall sign* area is decreased by the use of other *primary signs*.
- (b) Table 142-12C provides the basis for calculating the *wall sign copy area* for establishments along a single *street frontage*. The permitted *sign copy area* is based on the length of the establishment's *street wall*, and the width of the adjacent *public right-of-way*, ~~and the other types of signs located on the premises.~~

Table 142-12C  
Calculation of Wall Sign Copy Area  
on a Single Street Frontage

Public Right-of-way Width	Sign Category A			Sign Category B	Sign Category C
	<del>Wall Signs Only. No Roof, Ground, or <u>Roof Signs</u> or Projecting Signs</del>	<del>Wall Signs and One Ground Sign. No Roof or Projecting Signs</del>	1) <del>Wall Signs and Roof <u>Roof Signs</u> or Projecting Signs. No Ground Sign;</del> or 2) <del>Wall Signs on a Building with One High-rise Wall Sign</del>	<del>Wall Signs and Projecting Signs or Wall Signs and Ground Sign</del>	<del>Wall Signs and Projecting Signs or Wall Signs and Ground Sign</del>
Public right-of-way width 60 feet or less <sup>(1)</sup>	For wall sign copy area, multiply the establishment's street wall by 3 feet	<del>For wall sign copy area, multiply the establishment's street wall by 1-1/4 feet</del>	For wall sign copy area, multiply the establishment's street wall by 3/4 feet	For wall sign copy area, multiply the establishment's street wall by 3/4 feet	For wall sign copy area, multiply the establishment's street wall by 3/4 feet

<i>Public Right-of-way Width</i>	<i>Sign Category A</i>			<i>Sign Category B</i>	<i>Sign Category C</i>
	<i>Wall Signs Only. No Roof, Ground, or <u>Roof Signs</u> or <u>Projecting Signs</u></i>	<i><del>Wall Signs and One Ground Sign. No Roof or Projecting Signs</del></i>	<i>1) <u>Wall Signs and Roof <u>Roof Signs</u></u> or <u>Projecting Signs</u>. No <u>Ground Sign</u>; or 2) <u>Wall Signs</u> on a Building with One High-rise <u>Wall Sign</u></i>	<i><del>Wall Signs and Projecting Signs or <u>Wall Signs</u> and <u>Ground Sign</u></del></i>	<i><del>Wall Signs and Projecting Signs or <u>Wall Signs</u> and <u>Ground Sign</u></del></i>
<i>Public right-of-way width 60 feet or greater</i>	<i>For wall sign copy area, multiply the establishment's street wall by 3-3/4 feet</i>	<i><del>For wall sign copy area, multiply the establishment's street wall by 1-1/2 feet</del></i>	<i>For wall sign copy area, multiply the establishment's street wall by 1 foot</i>	<i>For wall sign copy area, multiply the establishment's street wall by 1 foot</i>	<i>For wall sign copy area, multiply the establishment's street wall by 1 foot</i>
<i>Maximum wall sign copy area</i>	<i>350 square feet</i>	<i><del>250 square feet</del></i>	<i>200 square feet</i>	<i>200 square feet</i>	<i>100 square feet</i>
<i>Minimum wall sign copy area for each establishment</i>	<i>75 square feet or 25 percent of the total area of establishment's street wall, whichever is less</i>	<i><del>30 square feet or 25 percent of the total area of establishment's street wall, whichever is less</del></i>	<i>20 square feet or 25 percent of the total area of establishment's street wall, whichever is less</i>	<i>20 square feet or 25 percent of the total area of establishment's street wall, whichever is less</i>	<i>20 square feet or 25 percent of the total area of establishment's street wall, whichever is less</i>

Footnote to Table 142-12C Footnote to Table 142-12C [No change in text.]

(c) [No change in text.]

(d) Locational Regulations for all *Wall Signs*

(1) through (4) [No change in text.]

(5) *Wall Signs* on Architectural Appendages

*Wall signs* may be placed on an architectural appendage that is an integral part of the building, projects over the *roof line*, and is

perpendicular to the *public right-of-way* subject to the following regulations.

- (A) [No change in text.]
- (B) The *sign* must be in lieu of any ~~ground, roof,~~ roof signs or *projecting signs* on the *premises*.

(C) through (F) [No change in text.]

(6) through (9) [No change in text.]

(e) [No change in text.]

§142.1260 **Signs Permitted by Higher Process**

The following *signs* may be permitted with a Neighborhood Use Permit in accordance with Chapter 12, Article 6, Division 2 and Chapter 14, Article 1,

Division 11:

- (a) [No change in text.]
- (b) *Signs* with automatic changing copy; (except that automobile service station gasoline pricing signs designed in accordance with state law may be approved in accordance with Process One).

(c) through (e) [No change in text.]

§143.0212 **Need for Site-Specific Survey and Determination of Location of Historical Resources**

- (a) The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a *construction permit* or *development permit* for *development* proposed for any parcel containing a *structure* that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for

any parcel identified as sensitive on the Historical Resource Sensitivity Maps. The following *development* shall be exempt from the requirements of Section 143.0212:

- (1) Interior *development* and any modifications or repairs that are limited in scope to an electrical or plumbing/mechanical permit shall be exempt from the requirement to obtain a site-specific survey prior to approval of the applicable *construction permit* where the *development* would not include a change to the exterior of existing *structures*;
- (2) In kind roof repair and replacement shall be exempt from the requirement to obtain a site-specific survey prior to approval of the applicable *construction permit*;
- (3) In kind foundation repair and replacement, except for *structures* with a decorative block or cobblestone foundation; and
- (4) Construction of a swimming pool in a rear *yard*, except on a property that requires a survey in accordance with Section 143.0212(b).

(b) [No change in text.]

(c) The City Manager shall determine the need for a site-specific survey within 10 *business days* of application for a *construction permit* or within 30 calendar days of application for a *development permit*. A site-specific survey shall be required when the City Manager determines that a *historical resource* may exist on the parcel or if the *development* proposes

a substantial alteration according to Section 143.0250(a)(3). If the City Manager determines that a site-specific survey is not required within the specified time period, a permit in accordance with Section 143.0210 shall not be required.

(d) [No change in text.]

§144.0233 **Acceptance of Dedication**

No reservation for ~~public rights-of-way~~ shall be offered for dedication unless such offer includes any necessary slope easements required for the ultimate development development of the ~~public right-of-way~~, and no such reservation shall be accepted for dedication by the City until improvements therein are constructed pursuant to the requirements of ~~this~~ the San Diego Municipal Code. The City Engineer, or other designee of the City Manager, may accept on behalf of the City Council ~~streets~~ and roads, or portions thereof, into the City ~~street system~~ system and record conveyances to the City of real property interests for ~~street~~ and road uses and purposes. No ~~street~~ shall be accepted into the City ~~street system~~ system and open to public use until improvements are constructed pursuant to the requirements of ~~this Code~~ the San Diego Municipal Code.

§144.0242 **Waiver of the Requirements to Underground Privately Owned Utility Systems and Service Facilities**

(a) [No change in text.]

(b) Process. Requests to waive the undergrounding requirement in ~~s~~Section 144.0240(b) shall be considered concurrently with the approval of a *tentative map* or amendment thereto. Supporting facts for a decision to

grant a waiver shall be documented in the findings findings for tentative map approval.

(c) through (d) [No change in text.]

§155.0238 Use Regulations Table of CU Zones

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

Legend for Table 155-02C

[No change in text.]

Table 155-02C  
Use Regulations Table for CU Zones

Use Categories/Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd	CU-									
	>>	1- <sup>(1)</sup>		2-			3-				
	3rd >>	1	2	3	4	5	3 <sup>(2)(12)</sup>	6	7	8	
4th >>											
Open Space through Institutional, Separately Regulated Institutional Uses, Cemeteries, Mausoleums, Crematories [No change in text.]	[No change in text.]										
Churches & Places of Religious Assembly	E		E			E					
Institutional, Separately Regulated Institutional Uses, Communication Antennas, through Commercial Services, Personal Services [No change in text.]	[No change in text.]										
Assembly & Entertainment	-		P <sup>(12)</sup>			P <sup>(12)</sup>					

Commercial Services, Radio & Television Studios through Commercial Services, Separately Regulated Commercial Services Uses, Adult Entertainment Establishments, Sexual Encounter Establishment [No change in text.]	[No change in text.]		
<u>Assembly &amp; Entertainment Uses, Including Places of Religious Assembly</u>	<u>C</u>	<u>L</u>	<u>L</u>
Commercial Services, Separately Regulated Commercial Services Uses, Bed & Breakfast Establishments, through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]	[No change in text.]		

~~Footnotes to Table 155-05C~~ Footnotes to Table 155-02C [No change in text.]

**§156.0315 Separately Regulated Uses**

(a) through (g) [No change in text.]

(h) *Historical Buildings Occupied by Uses Not Otherwise Allowed*

*Historical buildings* occupied by uses not otherwise allowed may be permitted with a Conditional Use Permit in accordance with Process Three subject to the following regulations:

(1) [No change in text.]

(2) The use of the *historical resource building* shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed. To minimize detrimental effects to neighboring properties, any separately regulated uses in a historical building shall comply with the regulations in Section 156.0315 (Centre City Planned District

Ordinance Separately Regulated Uses) and Chapter 14, Article 1  
(Separately Regulated Use Regulations).

- (3) The *historical resource-building* shall be preserved, restored, rehabilitated, reconstructed, or maintained in its original historical appearance in accordance with Chapter 14, Article 3, Division 2 of ~~this Code.~~
- (4) Any facilities that are constructed as part of the new use shall be designed to be similar in scale and style with the historical use, and cause no more than a minor alteration to the *historical resource building* in accordance with Historical Resources Regulations unless the *development* is approved through a Site Development Permit or Neighborhood Development Permit in accordance with Chapters 11 through 14 ~~of this Code.~~

(i) through (j) [No change in text.]

**§1510.0303 Single-Family Zone - Permitted Uses**

In the Single-Family (SF) Zone, designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following uses:

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

- (e) ~~Churches, temples or buildings of a permanent nature, used primarily for religious purposes.~~

- ~~(d)~~(e) Electric distribution and gas regulating stations as a conditional use subject to a Process Three Conditional Use Permit in accordance with Land Development Code Section 141.0408 (Separately Regulated Use Regulations).
- ~~(e)~~(f) Golf courses as a conditional use subject to a Process Four Conditional Use Permit in accordance with Land Development Code Section 141.0609 (Separately Regulated Use Regulations).

**§1510.0307 Visitor Zone-Permitted Uses**

In the Visitor (V) Zone, designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes:

- (a) through (c) [No change in text.]
- (d) Assembly and entertainment uses, including places of religious assembly, that obtain a Conditional Use Permit decided in accordance with Process Three in accordance with Section 141.0602 (Separately Regulated Use Regulations).
- ~~(d)~~(e) In the portion of Pueblo Lot 1286 bounded by La Jolla Shores Drive, Torrey Pines Road and La Jolla Parkway (dedicated but unimproved as a roadway) a restaurant and automobile service station will be permitted in addition to any of the other visitor area uses.
- ~~(e)~~(f) Any other uses the Planning Commission may find, in accordance with Process Four, to be similar in character to the uses, including accessory

uses, enumerated above and consistent with the purpose and intent of the Visitor Zone and the La Jolla Shores Planned District Ordinance. The adopted resolution embodying such finding shall be filed in the office of the City Clerk.

**§1510.0309 Commercial Center Zone-Permitted Uses**

In the Commercial Center (CC), designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes provided that the ground floor area of any establishment does not exceed 6,000 square feet. The minimum floor area for each dwelling unit or apartment is 400 square feet.

(a) through (e) [No change in text.]

(f) Assembly and entertainment uses, including places of religious assembly, that obtain a Conditional Use Permit decided in accordance with Process Three in accordance with Section 141.0602 (Separately Regulated Use Regulations).

~~(g)~~ Any other use which the Planning Commission may find, in accordance with Process Four, to be similar in character to the uses enumerated above and consistent with the purpose and intent of the Commercial Center Area (CC) and the La Jolla Shores Planned District. The adopted resolution embodying such finding shall be filed in the office of the City Clerk.

**§1513.0304 Property Development Regulations – Residential Subdistricts**

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

(d) Encroachments

(1) [No change in text.]

(2) Encroachments into yards for Courts, Places, and all yards on  
Ocean Front and Bayside Walks

(A) The following encroachments, in addition to those  
identified in Table 1513-03B, are permitted in yards for  
Courts, Places, and Walks:

(i) An encroachment of up to 18 inches ~~or~~ for a vertical  
offset extending full height of the building that is a  
maximum of 3 feet in ~~deep~~ depth and not less than  
45 degrees for at least 50 percent of the building as  
illustrated in Diagram 1513-03D provided that the  
width of the encroaching offset is not more than  
one-half of the total building width, and an insert  
area equal to the width of the encroaching offset at a  
minimum depth of 18 inches is undeveloped behind  
the required setback line parallel to the Court, Place,  
or Walk.

(ii) [No change in text.]

(B) [No change in text.]

(3) through (4) [No change in text.]

(e) through (h) [No change in text.]

**Chapter 15: Planned Districts**

**~~Article 17: Otay Mesa Development District~~**

**~~Division 1: General Rules~~**

**~~Article 17: Otay Mesa Development District~~**

**~~Division 2: Permits and Procedures~~**

**~~Article 17: Otay Mesa Development District~~**

**~~Division 3: Zones and Subdistricts~~**

**~~Article 17: Otay Mesa Development District~~**

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

SMT:als  
03/23/2015  
04/15/2015 REV.COPY  
Or.Dept: DSD  
Doc. No.: 962974\_4

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 21 2015.

ELIZABETH S. MALAND  
City Clerk

By City Clerk  
Deputy City Clerk

Kevin L. Faulconer  
KEVIN L. FAULCONER, Mayor

Approved: 4/29/15  
(date)

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 21 2015, by the following vote:

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

Date of final passage MAY 05 2015

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

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

By Sty Ready, Deputy

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

APR 07 2015, and on MAY 05 2015

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

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

By Sty Ready, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20481

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**  
**NEW LANGUAGE: Double Underline**

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

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

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 126.0502; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0422, 131.0445, 131.0449, 131.0460, AND 131.0461; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4 BY AMENDING SECTIONS 142.0402 AND 142.0404; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 142.0525; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302 AND BY ADDING NEW SECTION 143.0365; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103, ALL RELATING TO SMALL LOT SUBDIVISIONS.

**§126.0502 When a Site Development Permit is Required**

- (a) [No change in text.]
- (b) A Site Development Permit decided in accordance with Process Three is required for residential *development* that involves any of the following:
  - (1) through (5) [No change in text.]
  - (6) Development of a small lot subdivision in accordance with Section 143.0365.
- (c) through (g) [No change in text.]

EXHIBIT NO. :
APPLICATION N
<b>6-SAN-15-001'</b>
Small Lot Subdivisions

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]  
E&ECS

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-	RS-												RX-		RT-						
	3rd >>	1-	1-												1-	1-							
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
<b>Open Space through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]	[No change in text.]																						

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-	2-	3-	4-	5-							
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
<del>Open Space through Residential, Rooming House</del> [No change in text.]	<del>[No change in text.]</del>												
<del>Single Dwelling Units</del>	p <sup>(13)</sup>		p <sup>(13)</sup>		p <sup>(13)</sup>		P		-				
<b>Separately Regulated Residential Uses through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]	[No change in text.]												

Footnotes for Table 131-04B

<sup>(1)</sup> through <sup>(12)</sup> [No change in text.]

<sup>(13)</sup> Development of a small lot subdivision is permitted in accordance with Section 143.0365.

**§131.0445 Lot Coverage in Residential Zones**

(a) In all RE zones, ~~and the RS-1-1, RS-1-2, RS-1-3, RS-1-4, RS-1-4, RS-1-5, RS-1-6, and RS-1-7 zones,~~ and in small lot subdivisions in accordance with Section 143.0365, the maximum permitted *lot coverage* is 50 percent on any *premises* where more than 50 percent of the *premises* contains *steep hillsides*.

(b) through (d) [No change in text.]

**§131.0449 Garage Regulations in Residential Zones**

(a) Garages within an existing embankment in the RE, RS, and RX Zones, and in small lot subdivisions in accordance with Section 143.0365.

Attached or detached garages, not exceeding 12 feet in height, including parapets and handrails, may encroach into the front and ~~street side yards~~ street side yards, as shown in Diagram 131-04N, subject to the following conditions:

(1) through (8) [No change in text.]

(b) [No change in text.]

**§131.0460 Maximum Third Story Dimensions in the RS Zones and in Small Lot Subdivisions**

In the RS-1-2, RS-1-3, RS-1-4, RS-1-5, RS-1-6, and RS-1-7 zones, and in small lot subdivisions in accordance with Section 143.0365, the following shall apply:

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

**§131.0461 Architectural Projections and Encroachments in Residential Zones**

(a) The following are permitted *architectural projections* and *encroachments* into required *yards* and the angled *building envelope* plane for RS and RX

zones, and the RM-1-1, RM-1-2, and RM-1-3 zones, and in small lot subdivisions in accordance with Section 143.0365. These projections and *encroachments* are not permitted in the required yards yards within view corridors that are designated by *land use plans* in the Coastal Overlay Zone and may not be located in a required *visibility area* or a required turning radius or vehicle back-up area except where ~~development~~ development regulations may allow.

(1) through (12) [No change in text.]

(b) through (c) [No change in text.]

**§142.0402 When Landscape Regulations Apply**

(a) [No change in text.]

(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 <i>Development Proposal</i>			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C <sup>(1)</sup>		
1. New <i>structures</i> that equal or exceed the <i>gross floor area</i> shown (Column B), and are proposing the type of <i>development</i> shown (Column C) through 2. Additions to <i>structures</i> or additional <i>structures</i> on developed properties that exceed the <i>gross floor area</i> shown or that increase the <i>gross floor area</i> by the percent shown (Column B), and are proposing the type of <i>development</i> shown (Column C) [No change in text.]			[No change in text.]	
3. New permanent parking and <i>vehicular use area</i> for four or more vehicles including access to the spaces, excluding parking for <i>single dwelling unit</i> uses on a <i>single lot</i> in <i>single dwelling unit</i> zones <u>and small lot subdivisions in accordance with Section 143.0365</u>			[No change in text.]	
4. New temporary parking and <i>vehicular use area</i> for four or more vehicles including access to the spaces, excluding parking for <i>single dwelling unit</i> uses on a <i>single lot</i> in <i>single dwelling unit</i> zones through 14. Commercial <i>development</i> with at least 1,000 square feet of landscape area [No change in text.]			[No change in text.]	

**§142.0404 Street Yard and Remaining Yard Planting Area and Point Requirements**

When new *structures* or additions to *structures* are subject to this section in accordance with Table 142-04A, the planting area required and the plants necessary to achieve the number of plant points required in Table 142-04C shall be provided. The required planting area is determined by multiplying the total square footage of the *street yard* or *remaining yard* area on the *premises*, by the percentage shown in Table 142-04C, unless stated otherwise in the table. The required planting points are determined by multiplying the total square footage of

the *street yard* or *remaining yard* area on the *premises*, by the points shown in the table. The required planting area and plant points for the *street yard* shall be located within the *street yard*. The required planting area and plant points for the *remaining yard* shall be located within the *remaining yard*.

**Table 142-04C**  
~~Street Yard and Remaining Yard Planting Requirements~~  
**Street Yard and Remaining Yard Planting Requirements**

Type of Development Proposal <sup>(6)</sup>	Type of <del>Yard</del> <u>Yard</u>	Planting Area Required (Percentage of total <i>yard</i> area unless otherwise noted below) <sup>(1)</sup>	Plant Points Required <sup>(1)</sup>
<i>Multiple Dwelling Unit Residential Development through Condominium Conversion</i> [No change in text.]			[No change in text.]
<u>Small Lot Subdivision</u>	<u>Street Yard</u>	50% <sup>(5)</sup>	<u>0.5 points per square foot of total street yard area</u>
	<u>Remaining Yard</u>	N/A	
<i>Commercial Development, or Industrial Development in Commercial Zones through Large retail establishments in any Industrial Zone.</i> [No change in text.]			[No change in text.]

Footnotes to Table 142-04C Footnotes to Table 142-04C [No change in text.]

**§142.0525 Multiple Dwelling Unit Residential Uses – Required Parking Ratios**

- (a) Minimum Required Parking Spaces. The required automobile parking spaces, motorcycle parking spaces, and bicycle parking spaces for development of *multiple dwelling units*, whether attached or detached, and related and *accessory uses* are shown in Table 142-05C. Other allowances and requirements, including the requirement for additional common area parking for some projects, are provided in Section 142.0525(b) through (d).

**Table 142-05C**  
**Minimum Required Parking Spaces for**  
**Multiple Dwelling Units and Related Accessory Uses**

Multiple Dwelling Unit <i>Multiple Dwelling Unit</i> Type and Related and Accessory Uses <i>Accessory Uses</i>	Automobile Spaces Required Per Dwelling Unit <i>Dwelling Unit</i> (Unless Otherwise Indicated)			Motorcycle Spaces Required Per <i>Dwelling Unit</i>	Bicycle <sup>(5)</sup> Spaces Required Per <i>Dwelling Unit</i>
	Basic <sup>(1)</sup>	Transit Area <sup>(2)</sup>	Parking Impact <sup>(3)</sup>		
Studio up to 400 square feet through Residential care facility (6 or fewer persons) [No change in text.]	[No change in text.]				
<u>Small lot subdivision in accordance with Section 143.0365</u>					
<u>Studio up to 400 square feet</u>	<u>1.25</u>	<u>1.0</u>	<u>1.5</u>	<u>N/A</u>	<u>N/A</u>
<u>1 bedroom or studio over 400 square feet</u>	<u>1.5</u>	<u>1.25</u>	<u>1.75</u>	<u>N/A</u>	<u>N/A</u>
<u>2+ bedrooms</u>	<u>2.0</u>	<u>1.75</u>	<u>2.25</u>	<u>N/A</u>	<u>N/A</u>
Transitional Housing (6 or fewer persons) through <i>Accessory uses</i> (Spaces per square feet <sup>(7)</sup> ) [No change in text.]	[No change in text.]				

Footnotes for Table 142-05C [No change in text.]

(b) through (d) [No change in text.]

**§143.0302 When Supplemental Neighborhood Development Permit and Site  
Development Permit Regulations Apply**

This division applies to any development proposal for which a Neighborhood

Development Permit or Site Development Permit is required as described in

Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

**Legend for Table 143-03A**

<u>NDP</u>	<u>Neighborhood Development Permit</u>
<u>SDP</u>	<u>Site Development Permit</u>

**Table 143-03A**  
**Supplemental Neighborhood Development Permit or Site Development Permit**  
**Regulations Applicability**

Type of <i>Development</i> Proposal	Applicable Sections	Required <i>Development</i> Permit/Decision Process
Affordable/In-Fill Housing and Sustainable Building Projects with Deviations through Mission Trails Design District [No change in text.]	[No change in text.]	
<u>Development of a small lot subdivision in accordance with Section 143.0365</u>	<u>143.0303, 143.0305, 143.0310, 143.0365, 143.0375</u>	<u>SDP/Process Three</u>
Development Within the Urban Village Overlay Zone through Clairemont Mesa Height Limit Overlay Zone [No change in text.]	[No change in text.]	

<b>Legend to Table 143-03A</b>	
NDP	NDP means Neighborhood Development Permit
SDP	SDP means Site Development Permit

**§143.0365 Supplemental Site Development Permit Regulations for Small Lot Subdivisions**

The purpose of these regulations is to provide supplemental regulations for development of single dwelling units in a small lot subdivision.

A small lot subdivision is the subdivision of multi-family zoned land, consistent with the density of the zone, for the construction of single dwelling units.

The intent is to encourage development of single dwelling units on small lots in order to provide a space-efficient and economical alternative to traditional single dwelling unit development. It is also the intent of these regulations to provide

pedestrian-friendly developments that are consistent with the neighborhood character.

The following supplemental regulations apply to a Site Development Permit for a small lot subdivision.

- (a) A small lot subdivision development is permitted in the RM-1-1 through RM-3-8 (Residential Multiple Unit) Zones, and zones with comparable density in the Planned Districts regulated in Chapter 15.
- (b) A dwelling unit may have a maximum of three bedrooms.
- (c) A small lot subdivision development shall comply with the regulations in Table 143-03C and the supplemental regulations in this section.

**Table 143-03C**  
**Development Regulations for Small Lot Subdivisions**

<b><u>Max permitted density pre-subdivided lot dwelling units (DU) per lot</u></b>	
<u>Pre-subdivided lot</u>	<u>per the base zone</u>
<u>Subdivided lot</u>	<u>1</u>
<b><u>Min lot area square feet (sf)</u></b>	<u>maximum permitted density of the base zone</u>
<b><u>Min lot dimensions</u></b>	
<u>Pre-subdivided lot</u>	
<u>Lot width (ft)</u>	<u>25</u>
<u>Lot depth (ft)</u>	<u>50</u>
<u>Street Frontage (ft) [See Section 131.0442(a)]</u>	<u>25</u>
<u>Subdivided lot</u>	
<u>Lot width (ft)</u>	<u>==</u>
<u>Lot depth (ft)</u>	<u>==</u>
<u>Street Frontage (ft) [See Section 131.0442(a)]</u>	<u>==</u>
<b><u>Setback requirements</u></b>	<u>per the base zone<sup>(1)</sup></u>
<b><u>Maximum lot coverage</u></b>	<u>==</u>
<b><u>Setback requirements for resubdivided corner lots [See Section 113.0246(f)]</u></b>	<u>applies</u>
<b><u>Max structure height (ft)</u></b>	
<u>RM-1-1, RM-1-2, and RM-1-3</u>	<u>36<sup>(2)</sup></u>
<u>RM-2-4, RM-2-5, and RM-2-6</u>	<u>40<sup>(3)</sup></u>
<u>RM-3-7 and RM-3-8</u>	<u>40</u>
<b><u>Lot coverage for sloping lots [See Section 131.0445(a)]</u></b>	<u>applies</u>

**Table 143-03C**  
**Development Regulations for Small Lot Subdivisions**

<u>Max floor area ratio</u>	<u>per the base zone<sup>(4)</sup></u>
<u>Accessory uses and structures [See Section 131.0448(a),(b)]</u>	<u>applies</u>
<u>Garage regulations [See Section 131.0449(a)]</u>	<u>applies</u>
<u>Building spacing [See Section 131.0450]</u>	<u>==</u>
<u>Max third story dimensions [See Section 131.0460]</u>	<u>==</u>
<u>Architectural projections and encroachments [See Section 131.0461(a)]</u>	<u>applies</u>
<u>Supplemental requirements</u>	
<u>RM-1-1, RM-1-2, and RM-1-3 [See Section 131.0464(d)]</u>	<u>applies</u>
<u>RM-2-4, RM-2-5, and RM-2-6 [See Section 131.0464(e)]</u>	<u>applies</u>
<u>RM-3-7 and RM-3-8 [See Section 131.0464(e)]</u>	<u>applies</u>
<u>Refuse and Recyclable Material Storage [See Section 142.0805]</u>	<u>applies</u>

**Footnotes for Table 143-03C**

<sup>1</sup> Only the setbacks that apply to the pre-subdivided lot apply, except that if the pre-subdivided small lot subdivision development covers more than one lot, the setback shall not be required for internal lot lines of the pre-subdivided lot.

<sup>2</sup> Section 131.0444(e) only applies to the building envelope at the front and side setback lines of the pre-subdivided lot. When adjacent to a RS (Residential- -Single Unit Zone), the maximum height is 30 feet.

<sup>3</sup> Section 131.0444(f) only applies to the building envelope at the front and side setback lines of the pre-subdivided lot.

<sup>4</sup> Per the base zone, except that reservation of floor area ratio for parking shall not be required.

(d) Required exterior open space.

(1) Each dwelling unit shall provide a minimum of 200 square feet of exterior open space within the small lot subdivision.

(2) Each dwelling unit shall provide a minimum of one private exterior useable open space area measuring 60 square feet, with a minimum dimension of no less than 6 feet.

(3) The area of a driveway shall not be counted toward required exterior open space.

(e) Dwelling units that abut the front vard of the pre-subdivided lot shall locate the primary pedestrian entrance facing that front vard.

(f) A Mutual Maintenance and Access Agreement for all facilities used in common shall be entered into to the satisfaction of the City Manager and shall be recorded against the applicable property or properties in the office of the San Diego County Recorder prior to issuance of a certificate of occupancy. The Mutual Maintenance and Access Agreement shall, at a minimum, include and provide for the following:

(1) Easements for:

(A) Shared driveway(s)

(B) Utilities

(C) Drainage and runoff

(D) Encroachments

(E) Maintenance, repair, and reconstruction

(2) Maintenance for:

(A) Shared driveway(s)

(B) Sewer lines

(C) Cable and electrical lines

(D) Exterior lighting

(E) Perimeter fences

(g) When an *alley* abuts the *premises*, access to required *off-street parking spaces* shall only be from the *alley*.

(h) Parking requirements and parking site design shall comply with the following regulations and Chapter 14, Article 2, Division 5 (Parking Regulations) for *single dwelling units*. Where there is a conflict with

Chapter 14, Article 2, Division 5, the requirements of this section shall apply.

- (1) The number of off-street parking spaces shall be consistent with the ratios for small lot subdivision in Table 142-05C.
- (2) Required parking shall be provided on each lot, or within a common parking area, or in a combination of the two.
- (3) Tandem parking is permitted, provided that the tandem spaces are assigned to the same dwelling unit.
- (4) A maximum of one driveway curb cut shall be permitted for each 50 feet of pre-subdivided street frontage.
- (5) Driveway width shall be determined based on the size of the lot, the number of parking spaces and location inside or outside of the Parking Impact Overlay Zone. The applicable minimum and maximum driveway widths are shown in Table 143-03D.
- (6) Required off-street parking spaces may be provided within a garage, a carport, or an unenclosed parking space.

**Table 143-03D**  
**Driveway Width for Small Lot Subdivisions**

<u>Pre-subdivided lots greater than 50 feet in width</u>		
<u>Off-street Parking Spaces in Small Lot Subdivision</u>	<u>Required Width</u>	
	<u>One-Way</u>	<u>Two-Way</u>
<u>10 or fewer</u>	<u>12 feet</u>	
<u>More than 10</u>	<u>14 feet</u>	<u>20 feet</u>
<u>Pre-subdivided lots 50 feet or less in width</u>		
<u>Off-street Parking Spaces in Small Lot Subdivision</u>	<u>Required Width</u>	
	<u>One-Way</u>	<u>Two-Way</u>
<u>10 or fewer</u>	<u>12 feet</u>	
<u>More than 10</u>	<u>14 feet</u>	<u>20 feet</u>

- (i) The planting requirements shall be in accordance with the requirements for small lot subdivisions shown in Table 142-04C.
- (j) An existing development that proposes to be subdivided into a small lot subdivision that deviates from the supplemental regulations set forth in this section or the parking ratios shown in Table 142-05C may be permitted only with a Site Development Permit decided in accordance with Process Three subject to the following regulations:
- (1) the development must be consistent with permitted density; and
  - (2) the development must comply with the requirement for a Mutual Maintenance and Access Agreement in Section 143.0365(f).

**§151.0103 Applicable Regulations**

- (a) [No change in text.]
- (b) The following regulations apply in all planned districts:

(1) through (8) [No change in text.]

(9) Supplemental Site Development Permit Regulations for Small Lot

Subdivisions contained in Land Development Code Section

143.0365.

SMT:als  
03/19/15  
Or.Dept: DSD  
Doc. No.: 892675\_4

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 21 2015.

ELIZABETH S. MALAND  
City Clerk

By *Stacy Orady*  
Deputy City Clerk

*Kevin L. Faulconer*  
KEVIN L. FAULCONER, Mayor

Approved: 4/29/15  
(date)

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 21 2015, by the following vote:

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

Date of final passage MAY 05 2015

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

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

By Atty Brady, Deputy

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

APR 07 2015, and on MAY 05 2015

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

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

By Atty Brady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20483