

**CALIFORNIA COASTAL COMMISSION**

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# W9d

**TO: COMMISSIONERS AND INTERESTED PERSONS**

**FROM: SHERILYN SARB, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT  
DEBORAH LEE, DISTRICT MANAGER, SAN DIEGO COAST DISTRICT  
LISA SCHLEMBACH, COASTAL ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO LOCAL  
COASTAL PROGRAM AMENDMENT NO. LCP-6-SAN-15-0035-4 (Part C:  
Solar Energy Systems) for Commission Meeting of March 9-11, 2016**

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### SYNOPSIS

On November 19, 2015, the City of San Diego's Local Coastal Program (LCP) Amendment No. LCP-6-SAN-15-0035-4 (Part C) was filed in the San Diego District Office. This amendment request was one of four, unrelated, items presented in the City's last 2015 calendar submittal for LCP amendments. All of the four items involve changes to the City's certified implementation plan (IP)/Land Development Code (LDC). For this item and Parts A/Affordable Housing Density Bonus and B/Community Plan Implementation Revisions, a one year time extension was granted by the Commission at the January 2016 hearing. Also at the January 2016 hearing, the Commission concurred with the Executive Director's determination that Part D, related to the incorporation of the Chollas Creek Triangle Implementation Plan Overlay Zone, was a de minimis LCP amendment and it was approved as submitted. The submittal involves changes to the City's certified implementation plan (IP)/Land Development Code (LDC) and this one part involves the addition of a new separately regulated use category for solar energy systems in all base zones as a limited use. A one-year time extension was granted on the amendment package on December 16, 2015. As such, the last date for Commission action on this item is the January 2017 hearing.

Part B/Community Plan Implementation Revisions is also scheduled separately for Commission review and action on the March 2016 agenda. Part A/Affordable Housing Density Bonus has been rescheduled for the April 2016 hearing.

### SUMMARY OF AMENDMENT REQUEST

The City of San Diego is proposing a new, separately regulated land use of "Solar Energy Systems" in its effort to implement state Assembly Bill 2188, which is intended to facilitate small-scale solar energy systems on residential rooftops. Additional objectives of the state legislation are to increase the overall use of solar technology, generate jobs in the clean energy industry, and make it easier for the average household to install solar energy systems and benefit from the various incentives offered by the state's California

Solar Initiative program. As a result of the state law change, the City must now begin expediting solar approvals for duplex development in addition to single dwelling unit development.

The subject amendment request consists of creating a new separately regulated use category for “solar energy systems,” which would allow solar energy systems in all base zones and as a limited use where they meet specified criteria. Within planned districts, an additional planned district ordinance permit would not be required. The proposed amendment will also bring the City into compliance with state law (AB 2188 (Muratsuchi, 2014)).

### **SUMMARY OF STAFF RECOMMENDATION**

The proposed amendment seeks to comply with Assembly Bill 2188 by creating an expedited approval process for the installation of solar energy systems for single dwelling units and duplexes. Solar energy systems must comply with applicable height limits. However, within the Coastal Height Limit Overlay Zone, solar panels may be added to a structure that is previously conforming with respect to height if the panels do not exceed the height of the existing structure. The proposed ordinance also establishes there are no deviations to the City’s adopted Environmentally Sensitive Lands or Historic Resources protection measures which will ensure the protection of coastal bluffs, wetlands, steep, naturally vegetated hillsides and other coastal resources. The proposed amendment raises no Coastal Act issues because the LDC, as amended, would remain consistent with the City’s many certified Land Use Plans (LUPs) and serve to promote energy alternatives and more sustainable development. Policies found in the Ocean Beach LUP and the Barrio Logan LUP can be directly implemented through the proposed ordinance changes, as discussed further in this report. Staff is recommending the Commission approve the amendment as submitted. The appropriate resolution and motion may be found on Page 3. The findings for approval of the Implementation Plan Amendment as submitted begin on Page 5.

### **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 No. LCP-6-SAN-15-0035-4 may be obtained from Lisa Schlembach, 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 - RESOLUTION**

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

- I. MOTION I:** *I move that the Commission reject the City of San Diego LCP Amendment No. LCP-6-SAN-0035-4/Part C, as submitted*

**STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

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

**RESOLUTION TO APPROVE CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby certifies the Implementation Program Amendment 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 Land Use Plan(s), 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.

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

**A. AMENDMENT DESCRIPTION**

The Land Development Code establishes zone categories for the most typical land uses such as residential, commercial, industrial, agriculture, open spaces, etc., and to address unique land uses or development types, the LDC created “separately regulated land uses.” The proposed amendment creates a new, separately regulated use category for solar energy systems and would allow solar energy systems in all base zones as a limited use. As a “limited use”, the installation of a solar energy system requires a construction permit and an electrical permit or a combination building permit and electric permit and it is subject to certain restrictions as specified in the code. The proposed amendment implements state Assembly Bill 2188 (signed into law by Governor Brown on September 21, 2014), which amended the Solar Rights Act of 1978, as subsequently amended in 2004. The Solar Rights Act provides an expedited approval process to facilitate the development of small solar energy systems for single dwelling units and duplex developments, to help meet the state’s “Million Solar Roofs” vision. The goals are to increase the overall use of solar technology, generate jobs in the clean energy industry, and make it easier for the average household to install solar energy systems and thus benefit from the various incentives offered by the California Solar Initiative Program.

Section 141.0418 is proposed to regulate small rooftop solar energy systems and other solar energy systems. Small solar energy systems are not larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal, and small solar energy systems are defined as devices or structural design features of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electric generation or water heating, which are installed on a single

dwelling unit or duplex development. “Other solar energy systems” are for those devices which do not fall within the scope of a small rooftop solar energy system. Solar energy systems will be exempt from the undergrounding of utilities and screening requirements.

Solar energy systems, as an accessory use, are permitted to encroach into required yards and the angled building envelope plane if they are securely attached to a previously conforming structure or other structure that is already permitted to project or encroach into the required setback or angled building envelope plane in accordance with Section 131.0461. Stand-alone solar energy systems may also encroach into required side yards and rear yards in compliance with Section 131.0461. Section 131.0461 however states, in summary, projections and encroachments are not permitted in yards within view corridors that are designated by land use plans in the Coastal Overlay Zone. Within the Mission Beach Planned District Ordinance, proposed encroachment of a solar energy system shall comply with Section 1513.0304(d). Section 1513.0304(d) allows for certain features to encroach in courts, places, walks, interior and street side yards; however, solar energy systems are not listed as an allowable encroachment. Further, solar systems in the Mission Beach planned district may not affect environmentally sensitive lands nor historic resources.

Additionally, solar energy systems shall comply with all applicable height limits. However, within the Coastal Height Limit Overlay Zone and the Clairemont Mesa Height Limit Overlay Zone, there is an allowance that solar energy systems may be installed on previously conforming structures that do not conform to the existing height provided the solar panels do not exceed the height of the existing structure.

## **B. SPECIFIC FINDINGS FOR APPROVAL**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The most significant Coastal Act issues raised by the proposed amendment involve possible impacts to visual resources, coastal landforms or environmentally sensitive habitat. However, the installation of solar energy systems will not significantly impact visual resources as these systems must comply with, among other requirements, the encroachment requirements outlined in Section 131.0461. Section 131.0461 states in summary, 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. The section also details restrictions related to angled building envelopes, which the installation of solar panels must also abide by. Additionally, the installation of solar energy systems must comply with the applicable height limits, with the exception that solar panels may be added to a previously conforming structure within the Coastal Height Limit Overlay Zone that does not conform to the existing height limit, if the solar panels do not exceed the height of the existing structure. Thus, solar energy systems will not be more visually obstructive than the existing structure they are installed on, nor will they impede visual resources through encroachment.

## **1. Adequacy of the Ordinance Revisions to Implement the Certified LUP Segments**

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified Land Use Plan(s). In the case of the City of San Diego, it has developed community planning areas based on its established neighborhoods and future urbanizing area. Predicated on those community planning areas, the City utilized the geographic segmentation provisions of the LCP regulations and developed its land use plan component covering twelve different communities (i.e., North City, La Jolla, Pacific Beach, Mission Beach, Ocean Beach, Peninsula, Otay-Mesa Nestor). Each community plan or LCP Land Use Plan contains policies that protect public views, scenic resources, public access, recreational opportunities and sensitive coastal resources including, but not limited to, beaches, bluffs, slopes, hillsides and environmentally sensitive lands in that community. The Commission's review of the proposed changes to the Land Development Code must assure that development is approved only when consistent with the certified LCP.

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

### **Ocean Beach Community Plan**

- Section 7.5.4 states, "Encourage the use of solar energy systems to supplement or replace traditional building systems."

### **Barrio Logan Community Plan**

- "Encourage new energy technologies to develop in the community."

The creation of solar energy systems as a new, separately regulated use will provide property owners a standardized, expedited implementation process, which complies with certified Ocean Beach and Barrio Logan Community Plans.

Consistent with state mandates, the proposed amendment establishes an expedited review process for small rooftop solar energy systems associated with single-family residences and duplex developments. Most of these solar systems would not necessitate a separate coastal development permit as an accessory improvement to an existing structure. For other standalone solar facilities, such as separate, ground-mounted solar panel arrays, the proposed code would still require review under the existing code to determine whether or not a separate coastal development permit would be required. If one is required, the existing certified code provides that consolidated processing of permits and discretionary reviews be completed. Given that the proposed code amendment provides no changes to the existing Environmentally Sensitive Lands or Historic Resources provisions, any potential impacts to designated public view corridors, coastal landforms or sensitive habitat areas would be addressed through the coastal development permit process. The modified regulations remain consistent with the certified LUPs as development standards are not being lessened. The critical resource protection measures of the LDC are not

being modified. Therefore, the Commission finds that the amendment is consistent with, and adequate to carry out, the certified LUPs.

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

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The 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.

The proposed amendments were reviewed for consistency with the certified Land Development Code (LDC) Environmental Impact Report (EIR) No. 96-0333 and certified General Plan Update Program EIR No. 104495, in accordance with Public Resources Code Section 21166 and CEQA Guidelines Section 15162. Based on this evaluation, Development Services Department staff determined the project would not result in new impacts or changed circumstances that would require a new environmental document and the previous environmental documents adequately cover these modifications to the LDC.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In this particular case, the LCP amendment 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, as amended, conforms with CEQA provisions.

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(O-2015-167) 7/21/15

STRIKEOUT ORDINANCE

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

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

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

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 2, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 112.0502; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 1 BY AMENDING SECTION 129.0107; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 3 BY AMENDING SECTION 129.0308; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0422; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 131.0522; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY ADDING NEW SECTION 141.0418; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 9 BY AMENDING SECTION 142.0905 AND REPEALING SECTION 142.0911; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103; AMENDING CHAPTER 15, ARTICLE 5, DIVISION 2 BY AMENDING SECTION 155.0238, RELATING TO SOLAR ENERGY SYSTEM PERMIT PROCESSING.

§112.0502 Process One

An application for a permit, map, or other matter acted upon in accordance with Process One may be approved or denied by a staff person designated by the City Manager pursuant to Section 111.0205. A public hearing will not be held, and a Process One decision may not be appealed except as otherwise set forth in Section 141.0418.

EXHIBIT NO. 1
APPLICATION NO.
<b>LCP-6-SAN-15-0035-4/Part C</b>
<b>Strikeout Ordinance</b>
 California Coastal Commission



§129.0107 **Decision Process for Construction Permits**

A decision on an application for a *construction permit* shall be made in accordance with Process One, except where state law requires an appeal hearing.

The type of permit, ~~and the decision maker,~~ and appeal rights, if any, are described in Chapter 12, Article 9, Divisions 1 through 8.

§129.0308 **Decision Process for an Electrical Permit**

(a) A decision on an application for an Electrical Permit shall be made by the Building Official in accordance with Process One, except that an appeal hearing shall be provided as described in Section 129.0308(b). The Electrical Permit shall be approved if the Building Official determines that the work described in the permit application and the accompanying plans complies with the requirements of the Electrical Regulations, other applicable laws and ordinances, and any applicable *development permit*.

(b) An applicant may appeal a Building Official's denial of an application for an Electrical Permit for a small rooftop solar energy system by filing an application for a Process Two appeal hearing as set forth in Section 141.0418(c).

§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 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> -	OP <sup>(1)</sup> -
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1   2	1
<b>Open Space through Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i></b> [No change in text.]		[No change in text.]				
<u>Solar Energy Systems</u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
<b>Institutional, Separately Regulated Institutional Uses, <i>Wireless Communication Facility</i> through <i>Signs</i>, Separately Regulated <i>Signs</i> Uses, <i>Theater Marquees</i></b> [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 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 Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]		[No change in text.]			
<u>Solar Energy Systems</u>		<u>L</u>		<u>L</u>	
Institutional, Separately Regulated Institutional Uses, <i>Wireless eCommunication Facility</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, <i>Theater Marquees</i> [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 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	4
Open Space through Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]		[No change in text.]																						
<u>Solar Energy Systems</u>	<u>L</u>	<u>L</u>												<u>L</u>		<u>L</u>								
Institutional, Separately Regulated Institutional Uses, <i>Wireless Communication Facility</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [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, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]		[No change in text.]												
<u>Solar Energy Systems</u>	<u>L</u>	<u>L</u>			<u>L</u>			<u>L</u>		<u>L</u>		<u>L</u>		
Institutional, Separately Regulated Institutional Uses, <i>Wireless Communication Facility</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]												

Footnotes for Table 131-04B [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-	2-	3-	1-	1-							
	4th >>	1	2	3	4	5	1	1	1	2	1	2	1	2	1	2
Open Space through Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]	[No change in text.]															
<u>Solar Energy Systems</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	
Institutional, Separately Regulated Institutional Uses, <i>Wireless Communication Facility</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, <i>Theater Marquees</i> [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	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5
Open Space through Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]	[No change in text.]																									
<u>Solar Energy Systems</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>							
Institutional, Separately Regulated Institutional Uses, <i>Wireless Communication Facility</i> through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, <i>Theater Marquees</i> [No change in text.]	[No change in text.]																									

Footnotes for Table 131-05B [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	Zones									
	Designator	IP-			IL-			IH-		IS-	IBT-
	1st & 2nd>>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	3rd >>	1	1	1	1	1	1	1	1	1	1
4th >>	1	1	1	1	1	1	1	1	1	1	
Open Space through Institutional, Separately Regulated Institutional Uses, <i>Social Service Institutions</i> [No change in text.]	[No change in text.]										
<u>Solar Energy Systems</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Institutional, Separately Regulated Institutional Uses, <i>Wireless eCommunication fFacility</i> through Signs, Separately Regulated Signs Uses, Theater Marqueees [No change in text.]	[No change in text.]										

Footnotes for Table 131-06B [No change in text.]

§141.0418 Solar Energy Systems

(a) This Section regulates small rooftop solar energy systems and other solar energy systems, which are collectively referred to as solar energy systems, except where specifically distinguished herein. Nothing in this Section grants any deviation from the Environmentally Sensitive Lands Regulations (Chapter 14, Article 3, Division 1) or Historic Resource Regulations (Chapter 14 Article 3, Division 2).

(1) Small rooftop solar energy systems are devices or structural design features of a building, the primary purpose of which is to provide

for the collection, storage, and distribution of solar energy for space heating or cooling, electric generation, or water heating, which are not larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal, and are installed on a single dwelling unit or duplex development.

(2) Other solar energy systems are any other solar energy system devices or structural design features of a building, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electric generation, or water heating that are not within the scope of a small rooftop solar energy system described in Section 141.0418(a)(1).

(b) Solar energy systems are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations. The regulations are intended to facilitate the use of renewable energy technology to attain environmental and energy goals and comply with state law related to small rooftop solar energy systems, to provide for timely administrative approvals, and to allow an applicant to appeal a denial to the Planning Commission.

(1) A construction permit decided in accordance with Process One shall be required for the installation of a solar energy system, in accordance with the following:

- (A) An Electrical Permit is required for a solar energy system.  
A Combination Building Permit and Electrical Permit is  
required if the scope of work also includes the *development*  
of a new *structure* or requires structural modifications to an  
existing *structure* to support the solar energy system.
- (B) The *construction permit* application shall be submitted in  
accordance with Sections 112.0102 and 129.0105.
- (C) Within a planned district (subject to Land Development  
Code Chapter 15), a separate Planned District Ordinance  
Permit shall not be required in addition to the *construction*  
*permit* required for a solar energy system pursuant to  
Section 141.0418(b)(1).
- (2) Solar energy systems are exempt from the regulations requiring  
undergrounding of utilities and from the screening requirements of  
Section 142.0910.
- (3) Solar energy systems as an *accessory use* are permitted to encroach  
into required *yards* and the angled *building envelope* plane as  
follows:
- (A) Solar energy systems may encroach into required *side*  
*yards* and rear *yards* where securely attached to a  
*previously conforming structure* or other *structure* that is  
permitted to project or encroach into the required *setback*  
or angled *building envelope* plane in accordance with



Section 131.0461. Stand alone solar energy systems may encroach into required side yards and rear yards in compliance with Section 131.0461.

(B) Within the Mission Beach Planned District Ordinance, proposed encroachment of a solar energy system shall comply with Section 1513.0304(d).

(4) Solar energy systems shall comply with all applicable height limits, except that solar panels may be added to a previously conforming structure that does not conform to the existing height limit of the Coastal Height Limit Overlay Zone (Section 132.0505) or the Clairemont Mesa Height Limit Overlay Zone (Section 132.1305), if the proposed solar panels do not exceed the height of the existing structure, in accordance with the California Solar Rights Act.

(c) Small Rooftop Solar Energy Systems Permit Review

(1) In reviewing a construction permit application for a small rooftop solar energy system, the Building Official shall evaluate only whether the small rooftop solar energy system meets applicable health and safety requirements of local, state, and federal law.

(2) The Building Official shall administratively approve the small rooftop solar energy system, unless the small rooftop solar energy system would exceed the height requirements set forth in Section 141.0418(b)(4), or the Building Official determines there is

substantial evidence of a specific, adverse impact upon the public health and safety, which for the purpose of Section 141.0418(c) means a significant, quantifiable, direct, and unavoidable impact based on objective, identified, and written public health and safety standards, policies, or conditions as they existed on the date the application was deemed complete, and there is no feasible method or alternative to satisfactorily mitigate or avoid the specific, adverse impact.

(3) If the Building Official determines that the proposed small rooftop solar energy system could have a specific, adverse impact upon the public health and safety, then the Building Official shall make written findings notifying the applicant that the permit for the small rooftop solar energy system is denied, the basis for that denial in accordance with Section 141.0418(c)(2), and the appeal rights set forth in Section 141.0418(c)(4). The applicant shall be responsible for all administrative costs associated with processing the appeal.

(4) Applicant Appeal Process. Notwithstanding Section 112.0504, an applicant may appeal the denial of an application for a small rooftop solar energy system to the Planning Commission by filing an application for a Process Two appeal hearing with the City Manager no later than 12 business days after the decision date. The

application shall include the contents for appeal identified in Section 112.0510(a).

- (A) Grounds for Appeal. A denial may only be appealed on the grounds that the stated *findings* to deny the *construction permit* are not supported by substantial evidence.
- (B) Scheduling an Appeal Hearing. The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 10 calendar days after the date on which an application for the appeal hearing is filed with the City Manager. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.
- (C) Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the decision to deny a small rooftop solar energy system in accordance with the following:
  - (i) A decision to affirm the Building Official decision shall require a *finding* based on substantial evidence in the record that the proposed small rooftop solar energy system could have a specific, adverse impact upon the public health and safety.
  - (ii) If the Planning Commission determines that there is not substantial evidence that the small rooftop solar

energy system could have a specific, adverse impact upon the public health and safety, then the decision shall be reversed and the construction permit shall be approved.

- (iii) If the Planning Commission determines that conditions of approval would mitigate the specific, adverse impact upon the public health and safety, then the decision shall be reversed and the construction permit shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit conditions shall not cause an increase in the cost of the small rooftop solar energy system by more than 10 percent or decrease the efficiency of the small rooftop solar energy system by more than 10 percent.

§142.0905 When Mechanical and Utility Equipment Screening Regulations Apply

This ~~d~~Division applies to all multiple unit residential, commercial, and industrial *development* that proposes mechanical or utility equipment, whether or not a permit or other approval is required for the *development*, except that solar energy systems are exempt where developed in accordance with Section 141.0418.

~~§142.0911~~ ~~Solar Energy Systems~~

- ~~(a) Solar energy systems as an accessory use are exempt from the requirements of Section 142.0910(a) and from regulations requiring undergrounding of utilities.~~
- ~~(b) Solar energy systems are permitted within rear and side yards.~~

§151.0103 Applicable Regulations

- (a) [No change in text.]
- (b) The following regulations apply in all planned districts:
  - (1) Land Development Code, Chapter 11 (Land Development Procedures);<sub>2</sub>
  - (2) Land Development Code, Chapter 12 (Land Development Reviews), except Chapter 12, Article 6, Division 6, where specifically excluded in the planned district regulations;<sub>2</sub>
  - (3) Land Development Code, Chapter 13, Article 2 (Overlay Zones);<sub>2</sub>
  - (4) Solar energy systems regulations contained in Land Development Code Section 141.0418.
  - ~~(4)~~(5) Alcoholic beverage outlets regulations contained in Land Development Code Section 141.0502;<sub>2</sub>
  - ~~(5)~~(6) Adult entertainment establishments regulations contained in Land Development Code Section 141.0601;<sub>2</sub> and<sub>2</sub>
  - ~~(6)~~(7) Child care facilities regulations contained in Land Development Code Section 141.0606;<sub>2</sub> and<sub>2</sub>
  - ~~(7)~~(8) Parking Regulations for Reduced Parking Demand Housing in Land Development Code Section 142.0527, except where the

Planned District Ordinance provides a lower parking ratio than allowed in Section 142.0527.

~~(8)~~(9) Medical marijuana consumer cooperative regulations contained in Section 141.0614, when that use is specifically allowed by the Planned District Ordinance.

**§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-									
	3rd >>	1 <sup>-(1)</sup>		2-			3-				
	4th >>	1	2	3	4	5	3 <sup>(2)(12)</sup>	6	7	8	
<b>Open Space through Institutional, Separately Regulated Institutional Uses, Social Service Institutions</b> [No change in text.]		[No change in text.]									
<u>Solar Energy Systems</u>		<u>L</u>		<u>L</u>			<u>L</u>				
<b>Retail Sales through Signs, Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]		[No change in text.]									

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

SMT:als  
06/30/2015  
Or.Dept: DSD  
Doc. No.: 993269\_2

Passed by the Council of The City of San Diego on AUG 04 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage AUG 07 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 Mary Fernandez, 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

JUL 21 2015, and on AUG 07 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 Mary Fernandez, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 20555