

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370



W26a

Addendum

March 1, 2017

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item W26a**, City of Oceanside Local Coastal Program
Amendment No. LCP-6-OCN-16-0071-2 (Zoning Ordinance Update -
Regulated Uses), for the Commission Meeting of March 8, 2017

The purpose of this addendum is to make minor corrections to the staff report. Staff recommends the following changes be made to the above-referenced staff report. Additions shall be underlined:

1. On Pages 1 and 3 of the staff report, the LCPA number shall be corrected to state LCP-6-OCN-16-0071-2.
2. On Page 1 of the staff report, the first sentence of the synopsis shall be corrected to state:

The subject LCP implementation plan amendment was submitted on December 29, 2016 and filed as complete on January 17, 2017...

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



February 16, 2017

W26a

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: KARL SCHWING, DEPUTY DIRECTOR, SD COAST DISTRICT
GABRIEL BUHR, COASTAL PROGRAM MANAGER, SD COAST DISTRICT
ERIC STEVENS COASTAL PROGRAM ANALYST, SD COAST DISTRICT**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF OCEANSIDE LOCAL COASTAL
PROGRAM AMENDMENT NO. LCP-6-OCN-17-0071-2 (Zoning Ordinance
Update - Regulated Uses) for Commission Meeting of March 8-10, 2017**

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on January 17, 2017. The date by which the Commission must take action, absent an extension of the time limits by the Commission, is March 18, 2017. This report addresses the entire submittal. The proposed amendment will affect the certified LCP Implementation Plan only.

BACKGROUND

Currently the City of Oceanside utilizes two different zoning ordinances, one of which applies to lands within the coastal zone and serves as the City's certified Implementation Plan (IP), the second of which applies to lands outside the coastal zone. However, moving forward, the City is working to consolidate these two documents in order to have one zoning document that would apply Citywide. As such, the City has begun to update and merge these two documents through a phased approach. City and Commission staffs have been working cooperatively to expedite those changes, which do not raise Land Use Plan or Coastal Act consistency concerns. The Commission initially certified the changes that could be found to be minor in nature in December of 2015. A second City of Oceanside LCP amendment was approved by the Commission at the January 2017 hearing that continued this approach to merge the two zoning ordinances, and primarily focused on a number of items that were not likely to impact coastal resources, such as repealing unused zoning designation or repealing older designations and replacing them with comparable designations from the more recent zoning ordinance. The subject amendment now represents the third LCP amendment that continues the merging of these two zoning ordinances. This set of revisions was determined not to qualify as minor because the proposal includes modifications to zoning designations, which is considered to be a change in land use. This LCP amendment request contains no substantive revisions that would impact coastal resources. It is anticipated that as the efforts to combine these two zoning ordinances continue to move forward, the City will submit the

more substantive revisions to its certified IP as it moves toward the goal of having one certified zoning document to be applied Citywide. These substantive changes will include updating the City's stringline maps, modifying height restrictions, and updating definitions for terms that have historically caused issues for the City, among others. In addition, the City recently received a Commission Local Coastal Program Local Assistance Grant to include a Sea Level Rise Vulnerability Assessment, Adaptation Plan, and overall LUP Update, and; as such, the City will include these specific components into its proposed LCP Update.

SUMMARY OF AMENDMENT REQUEST

As detailed above, the City is currently undergoing efforts to merge two different zoning documents into one consolidated document. To that end, the City is requesting the repeal, certification and/or modification of several articles. The request includes four articles proposed for repeal, three articles proposed for revision, and four new articles proposed for certification.

The articles proposed for repeal consist of zoning ordinance sections that are being updated and replaced in their entirety. Specifically, the City is proposing to remove the following zones: Article 15 (Conditional Use Permits); Article 15.2 (Separation of Regulated Uses); Article 19 (Variances); and Article 20 (Zoning Ordinance Amendments and Zone Reclassifications).

Further, the City is proposing to amend existing Article 11 (C-2 – General Commercial (C-2 Zone)) of the 1986 Zoning Ordinance to clarify that Tattooing establishments are subject to compliance with Article 36 and Articles 4a (D-Downtown District) and 12 (D-Downtown District) of the Redevelopment Project Area (D-Downtown District), to include updates to terminology and formatting, to include reference to adult orientated commercial uses, and to add the designation “AR” for regulated use classifications permitted upon approval of an Administrative Regulated Use Permit.

Finally, the City is proposing certification of four new articles to include the following: Article 4 (Use Classifications (Inland & Coastal Districts – Exclusive of Downtown)), Article 36 (Separation of Regulated Uses (City-wide)); Article 41 (Use Permits and Variances (City-wide)); and Article 41c (Use Permits (Coastal Zone – Exclusive of Downtown)). The new articles will replace zoning ordinance sections that have been removed.

The LCP Amendment request (and attached resolutions and ordinances approving the subject amendment request) contain additional articles proposed for revision, which has already been acted on by the Commission. In January 2017, the Commission approved LCPA-OCN-16-0042, which included numerous changes to the City's zoning ordinances. At the time the City requested that the Commission not consider the repeal of Articles 15, 15.2, 19, 20 and the certification of Articles 36 and 41 due to an ongoing legal issue related to regulation of land uses that involve the exercise of rights protected by the First Amendment. The legal issues have been resolved through the proposed zoning ordinance

modifications. Thus, these articles have now been included in the subject LCP Amendment request.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending the Commission approve LCP Amendment No. LCPA-6-OCN-17-0071-2, as submitted by the City.

The revisions to the zoning ordinances are necessary to ensure that the City can legally enforce the appropriate time, place and manner of limits on Regulated Uses protected by the First Amendment consistently. In addition, the zoning ordinance modifications will result in increased consistency and clarity related to the standard of review within the Coastal Zone and outside the Coastal Zone. While the project includes a significant number of revisions to the City's Implementation Plan, through cooperative work between City and Commission staffs, all potential LUP inconsistency concerns have been previously addressed. In the spring of 2016, Commission staff began review of the proposed amendment and did not identify any required revisions. As such, the proposed amendment can be found consistent with the City's LUP, and can be approved as submitted.

The appropriate resolutions and motions begin on page 5. The findings for approval of the Implementation Plan Amendment as submitted begin on page 5.

ADDITIONAL INFORMATION

Further information on the City of Oceanside LCP amendment LCPA-6-OCN-16-0071-2 may be obtained from Eric Stevens, Coastal Planner, at (619) 767-2370.

EXHIBITS

[Exhibit 1 – Resolution LCPA 15-00004](#)

[Exhibit 2 – Resolution LCPA 16-00002](#)

[Exhibit 3 – Ordinance 16-ORO513-1](#)

[Exhibit 4 – Ordinance 16-ORO690-1](#)

[Exhibit 5 – Articles Proposed for Repeal \(Includes all Text in Strike-Out and Not in Strike-Out\)](#)

[Exhibit 6 – Articles Proposed for Certification \(Shown in Underline\)](#)

[Exhibit 7 – Articles Proposed for Modification \(Shown in Strike-Out and Underline\)](#)

PART I. OVERVIEW

A. LCP HISTORY

The City of Oceanside first submitted its Local Coastal Program Land Use Plan (LUP) to the Commission in July 1980, and it was certified with suggested modifications on February 19, 1981. This action, however, deferred certification on a portion of the San Luis Rey River valley where an extension of State Route 76 was proposed. On January 25, 1985, the Commission approved with suggested modifications the resubmitted LUP and Implementing Ordinances. The suggested modifications for this approval were related to the guaranteed provision of recreation and visitor-serving facilities, assurance of the safety of shorefront structures, and the provision of an environmentally sensitive routing of the proposed Route 76 east of Interstate 5. The suggested modifications to the Zoning/Implementation phase resulted in ordinances and other implementation measures that were consistent with the conditionally certified LUP policies.

With one exception, the conditionally certified LUP and Implementing Ordinances were reviewed and approved by the City on May 8, 1985. The City requested that certification be deferred on one parcel adjacent to Buena Vista Lagoon designated by the City for "commercial" use; the Commission's suggested modification designated it as "open space." On July 10, 1985, the Commission certified the City's Local Coastal Program as resubmitted by the City, including deferred certification on the above parcel.

B. STANDARD OF REVIEW

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

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings on May 23, 2016, June 22, 2016, November 7, 2016, and December 7, 2016 with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

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

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment for the City of Oceanside LCPA No. LCP-6-OCN-16-0071-2 as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

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

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment for the City of Oceanside as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

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

A. AMENDMENT DESCRIPTION

The subject LCP amendment request includes a) repeal of four existing articles; b) certification of four new articles; and 3) revisions to three existing Articles.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The proposed changes are discussed separately and in greater detail in Subsection No. 1

(Articles Proposed for Repeal), Subsection No. 2 (Articles Proposed for Certification), and Subsection No. 3 (Articles Proposed for Modification) below.

1. Articles Proposed for Repeal

- a) Purpose and Intent of the Ordinance. The subject LCP amendment includes a number of articles proposed for repeal, and the purpose and intent of each article is briefly described below:
- Article 15 (Conditional Use Permits): Details uses that are subject to the review and issuance of a Conditional Use Permit (CUP). Includes the use table that details uses allowed within a particular zone by right, uses allowed in a particular zone after granting of CUP, uses not allowed within a particular zone and uses that must show desirability and necessity to be allowed in a particular zone.
 - Article 15.2 (Separation of Regulated Uses): Details locational requirements and waiver process related to adult oriented businesses that because of certain factors such as nature of operation, type of clientele, and hours of operation, may create conditions harmful to the public health, welfare, and safety when too numerous or concentrated in a limited geographic area or located near residential neighborhoods.
 - Article 19 (Variances): Details requirements that must be met in order to grant variances from the provisions of the zoning ordinance.
 - Article 20 (Zoning Ordinance Amendments and Zone Reclassifications): Details procedures to process an amendment to the boundaries of a zone, classification of property uses, or other provisions of the zoning ordinance.
- b) Major Provisions of the Ordinance. The articles proposed for repeal detail uses that require a Conditional Use Permit, uses that may be subject to additional locational requirements due to their adult orientated nature, and the process for variances, amendments, and zone reclassifications. These ordinances are proposed to be replaced with updated ordinances in order to consolidate development standards and procedures both within the Coastal Zone and outside of the Coastal Zone in the City. Articles 15 (Conditional Use Permits), 15.2 (Separation of Regulated Uses), and 19 (Variances) are proposed to be replaced with newly certified Articles pursuant to this LCPA. Article 20 (Zoning Ordinance Amendments and Zone Reclassifications) is proposed to be replaced by Article 45 (Amendments (City-wide)), which is a part of LCPA-OCN-16-0072-3.
- c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The changes proposed are primarily administrative in nature and are not expected to impact coastal resources. Commission staff has reviewed the above articles and

have determined that the repeal and replacement of these specific articles would not raise any LUP consistency concerns.

2. Articles Proposed for Certification.

a) Purpose and Intent of the Ordinance. The subject LCP amendment includes the certification of four new articles.

- Article 4 (Use Classifications (Inland & Coastal Districts – Exclusive of Downtown)): Describes one or more uses in the Inland and Coastal Districts (exclusive of the Downtown District), within the Residential, Public and Semipublic, Commercial, Industrial, Agricultural and Extractive, Accessory, and Temporary Use Classifications.
- Article 36 (Separation of Regulated Uses (City-wide)): Details city-wide locational requirements and waiver process related to adult oriented businesses that because of certain factors such as nature of operation, type of clientele, and hours of operation, may create conditions harmful to the public health, welfare, and safety when too numerous or concentrated in a limited geographic area or located near residential neighborhoods.
- Article 41 (Use Permits and Variances (City-wide)): Details city-wide procedures for approval, conditional approval, or disapproval of use-permit and variance applications.
- Article 41c (Use Permits (Coastal Zone – Exclusive of Downtown)): Details uses in the Coastal Zone (exclusive of Downtown) that are subject to the review and issuance of a Conditional Use Permit (CUP).

All four of these articles are proposed as replacements for articles proposed for repeal as described in the previous section of the staff report.

- Articles 4 (Use Classifications (Inland & Coastal Districts – Exclusive of Downtown)), 36 (Separation of Regulated Uses (City-wide)), 41 (Use Permits and Variances (City-wide)), and 41c (Use Permits (Coastal Zone – Exclusive of Downtown)) are proposed to replace Article 15 (Conditional Use Permits).
- Article 36 (Separation of Regulated Uses (City-wide)) is proposed to replace Article 15.2 (Separation of Regulated Uses).
- Article 41 (Use Permits and Variances (City-wide)) is proposed to replace Article 19 (Variances).

b) Major Provisions of the Ordinance. The articles proposed for certification detail uses that require a Conditional Use Permit, uses that may be subject to additional locational requirements due to their adult orientated nature, and the process for variances, amendments, and zone reclassifications. These ordinances are proposed

to replace existing ordinances in order to consolidate development standards and procedures within the Coastal Zone and outside of the Coastal Zone in the City.

- c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The changes proposed are primarily administrative in nature and are not expected to impact coastal resources. Commission staff has reviewed the above articles and have determined that the repeal and replacement of these specific articles would not raise any LUP consistency concerns.

3. Articles Proposed for Modification.

- a) Purpose and Intent of the Ordinance. The articles proposed for revisions are:
- Article 11 (C-2 – General Commercial (C-2 Zone)): Classifies and sets standards for retail and service commercial uses.
 - Article 4a of the Redevelopment Project Area (D-Downtown District): Describes one or more uses in the Downtown District within the Residential, Public and Semipublic, Commercial, Industrial, Agricultural and Extractive, Accessory, and Temporary Use Classifications.
 - Article 12 of the Redevelopment Project Area (D-Downtown District): Details special land-use subdistricts within the Downtown District with individual objectives.
- b) Major Provisions of the Ordinance. The modifications reflect updated terminology used by the City and include text related to regulation of first amendment protected uses.
- c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The revisions to the zoning ordinances are necessary to ensure that the City can consistently enforce appropriate time, place and manner limits on Regulated Uses protected by the First Amendment. The revisions include changes that are administrative in nature and are not expected to impact coastal resources. Commission staff has reviewed the above articles and have determined that the repeal and replacement of these specific articles would not raise any LUP consistency concerns.

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. Instead, the Coastal Commission acts as lead

agency for the purposes of fulfilling CEQA. 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 submission. The City concluded that there was no possibility that the activity would have a significant effect on the environment and therefore determined that the LCP amendment was not subject to CEQA. (Cal. Code of Regs., tit. 14, § 15061(b)(3).)

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. This report has discussed the relevant coastal resource issues with the proposed amendment and found that the amendment would not result in an intensification of land uses, or have adverse impacts on coastal resources. The proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

**Subject LCPA Only Affects Articles
15, 15.2, 19, 20, 36, & 41**

RESOLUTION NO. 16-R0435-1
16-R0436-3

A RESOLUTION OF THE CITY COUNCIL AND COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE AMENDING THE LOCAL COASTAL PROGRAM BY REPEALING ARTICLES 4, 6, 8.1, 9, 13, 13.1, 14.1, 14.2, 14.3, 14.6, 14.7, 15, 15.2, 16, 19, 20, 25, 26, 28, 29, 31, 37 AND 38 OF THE 1986 ZONING ORDINANCE AND AMENDING ARTICLES 22, 32, 33, 34, 36, 41, 43, 44 AND 45 OF THE 1992 ZONING ORDINANCE AND ESTABLISHING THE AMENDED TEXT AS PART OF THE IMPLEMENTING DOCUMENT OF THE COASTAL PROGRAM AND REQUESTING CALIFORNIA COASTAL COMMISSION CERTIFICATION OF SAID AMENDMENT

(City of Oceanside –Applicant)

(LCPA15-00004)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the "Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, on January 25, 1985, the California Coastal Commission ("Commission") approved with suggested modifications, the City's Land Use Plan ("LUP") and, pursuant to Public Resources Code §30512.2, found the City's LUP to be consistent with the policies and requirements of Chapter 3 of the Coastal Act and to meet the basic stated goals specified in Public Resources Code §30001.5;

WHEREAS, on December 8, 2008, the California Coastal Commission (CCC) established with the City of Oceanside that development proposals in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area would be reviewed for consistency under the standards of the City's 1986 Zoning Ordinance, in light of the fact that the previously applicable 1992 Zoning Ordinance had never received CCC certification; and

WHEREAS, on May 11, 2009, the City acknowledged in correspondence to the CCC an obligation to use the 1986 Zoning Ordinance as the standard for review of development proposals within those portions of the Coastal Zone located outside of the Downtown Redevelopment Area; and

WHEREAS, it is the desire of the City Council to update the City's zoning regulations for coastal and inland areas, including

EXHIBIT NO. 1

Resolution LCPA 15-00004



Oceanside LCP-6-OCN-16-0071-2
California Coastal Commission

of

1 WHEREAS, the Planning Division has prepared recommendations for text amendments to
2 consolidate development standards and procedures within one zoning ordinance; eliminate zoning
3 districts and associated development standards not applicable to the coastal zone; and update
4 references to decision-making bodies, City departments and management staff titles to reflect the
5 City's current organization (ZA15-00008); and
6

7 WHEREAS, on May 23, 2016, the Planning Commission conducted a duly-noticed public
8 hearing as prescribed by law and recommended City Council approval of said zoning ordinance
9 text amendment and Local Coastal Program amendment by unanimous vote; and

10 WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of
11 Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the
12 State Guidelines thereto amended to date and hereby approved by the City Council in
13 conjunction with its recommendations on the application; and

14 WHEREAS, the City Council and Community Development Commission conducted a
15 joint duly-noticed public hearing on June 22, 2016, to consider Zone Amendment ZA15-00008
16 and Local Coastal Program Amendment LCPA15-00004, and the recommendation of the
17 Planning Commission thereon, and heard and considered written and oral testimony regarding
18 the proposed amendments; and

19 WHEREAS, based upon such evidence, testimony and staff reports, this Council finds
20 that the Local Coastal Program Amendment (LCPA15-00004) conforms with and is adequate to
21 carry out the land use plan of the Local Coastal Program.

22 NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as
23 follows:

- 24
- 25 1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council hereby
26 certifies that the Local Coastal Program Amendment (LCPA15-00004 is intended to be
27 carried out in a manner fully in conformity with the Coastal Act, and is hereby adopted.
 - 28 2. Pursuant to the California Environmental Quality Act of 1970, and the State Guidelines
thereto amended to date, a Notice of Exemption has been issued for the project by the
Resource Officer for the City of Oceanside.

1 3. Pursuant to Coastal Commission Local Coastal Program Regulations §13551(b), this
2 Local Coastal Plan Amendment shall take effect upon Coastal Commission approval.

3 4. Notice is hereby given that the time within which judicial review must be sought on the
4 decision is governed by Public Resources Code §30801.

5 PASSED AND ADOPTED by the Oceanside City Council/Community Development
6 Commission this 22nd day of June, 2016, by the following vote:

7 AYES: FELLER, KERN, LOWERY, SANCHEZ

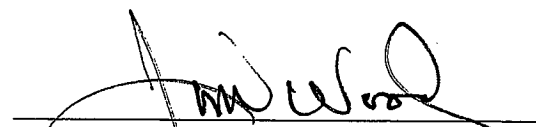
8 NAYS: NONE

9 ABSENT: NONE

10 ABSTAIN: WOOD

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12
13 ATTEST:

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15 _____
16 City Clerk/ CDC Secretary



Mayor/CDC Chair of the City of Oceanside

APPROVED AS TO FORM:

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18 _____
19 City Attorney/ CDC General Counsel
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**Subject LCPA Only Affects Articles
4, 4a, 11, 12, 36, 41, & 41c**

0802-1 & 16-R0803-3

**A RESOLUTION OF THE CITY COUNCIL AND COMMUNITY
DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE
AMENDING THE LOCAL COASTAL PROGRAM TO REGULATE
CERTAIN FIRST AMENDMENT PROTECTED LAND USES AND
REQUESTING CALIFORNIA COASTAL COMMISSION
CERTIFICATION OF SAID LOCAL COASTAL PROGRAM
AMENDMENT**

(City of Oceanside –Applicant)

(LCPA16-00002)

WHEREAS, the California Coastal Act (Public Resources Code §30000, et seq.) (the "Coastal Act") requires that the City adopt a Local Coastal Program (LCP) which meets the requirements of the Coastal Act at the local level and implements its provisions and policies;

WHEREAS, the City's adopted and certified LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP) inclusive of zoning ordinances applicable to areas within the coastal zone; and

WHEREAS, a Local Coastal Program Amendment (LCPA) is necessary to be processed and must be certified by the California Coastal Commission (CCC) in order to revise the City's adopted LCP; and

WHEREAS, the City Attorney's Office and Planning Division prepared recommendations for text amendments (ZA16-00004, LCPA16-00002) to regulate citywide the establishment and operation of First Amendment protected land uses in a constitutional manner, in accordance with recent case law; and

WHEREAS, on October 12, 2016, the City Council adopted said zoning text amendments to the City's ordinances (ZA16-00004) by unanimous vote; and

WHEREAS, on November 7, 2016, the Planning Commission conducted a duly-noticed public hearing as prescribed by law and recommended City Council approval of said Local Coastal Program amendment (LCPA16-00002) by unanimous vote; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of 1970 and the

EXHIBIT NO. 2

Resolution LCPA 16-00002



Oceanside LCP-6-OCN-16-0071-2

California Coastal Commission

1 State Guidelines thereto amended to date and hereby approved by the City Council in
2 conjunction with its recommendations on the application; and

3 WHEREAS, the City Council and Community Development Commission conducted a
4 joint duly-noticed public hearing on December 7, 2016, to consider Local Coastal Program
5 Amendment (LCPA16-00002), and the recommendation of the Planning Commission thereon,
6 and heard and considered written and oral testimony regarding the proposed amendments; and
7

8 WHEREAS, based upon such evidence, testimony and staff reports, this Council finds
9 that the Local Coastal Program Amendment (LCPA16-00002) conforms with and is adequate to
10 carry out the land use plan of the Local Coastal Program.

11 NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as
12 follows:

- 13 1. Pursuant to Public Resources Code §30510(a), the Oceanside City Council hereby
14 certifies that the Local Coastal Program Amendment (LCPA16-00002) is intended to be
15 carried out in a manner fully in conformity with the Coastal Act, and is hereby adopted.
- 16 2. Pursuant to the California Environmental Quality Act of 1970, and the State Guidelines
17 thereto amended to date, a Notice of Exemption has been issued for the project by the
18 Resource Officer for the City of Oceanside.
- 19 3. Pursuant to Coastal Commission Local Coastal Program Regulations §13551(b), this
20 Local Coastal Plan Amendment shall take effect upon Coastal Commission approval.
- 21 4. Notice is hereby given that the time within which judicial review must be sought on the
22 decision is governed by Public Resources Code §30801.

1 PASSED AND ADOPTED by the Oceanside City Council/Community Development

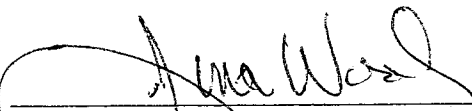
2 Commission this 7th day of December, 2016, by the following vote:

3 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

4 NAYS: NONE

5 ABSENT: NONE

6 ABSTAIN: NONE

7 

8 Mayor/CDC Chair of the City of Oceanside

9 ATTEST:

APPROVED AS TO FORM:

10 

11 City Clerk/ CDC Secretary

12 

13 City Attorney/ CDC General Counsel

**Subject LCPA Only Affects Articles
15, 15.2, 19, 20, 36, & 41**

ORDINANCE NO. 16-OR0513-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE REPEALING ARTICLES 4, 6, 8.1, 9, 13, 13.1, 14.1, 14.2, 14.3, 14.6, 14.7, 15, 15.2, 16, 19, 20, 25, 26, 28, 29, 31, 37, AND 38 OF THE 1986 ZONING ORDINANCE, AMENDING ARTICLES 22, 32, 33, 34, 36, 41, 43 AND 44 OF THE 1992 ZONING ORDINANCE AND ESTABLISHING THE AMENDED TEXT AS PART OF THE IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM

WHEREAS, it is the desire of the City Council to establish a common framework of zoning regulations for coastal and inland areas, inclusive of the downtown planning area; and

WHEREAS, the Planning Division has prepared recommendations for text amendments to the 1992 Oceanside Zoning Ordinance (ZA15-00008) to consolidate development standards and procedures within one zoning ordinance; eliminate zoning districts and associated development standards not applicable to the coastal zone; and update references to decision-making bodies, City departments and management staff titles to reflect the City's current organization; and

WHEREAS, on May 23, 2016, the Planning Commission conducted a duly-noticed public hearing as prescribed by law and recommended City Council approval of said zoning ordinance text amendments by unanimous vote; and

WHEREAS, the City Council conducted a duly-noticed public hearing on June 22, 2016, to consider Zone Amendment ZA15-00008, and the recommendation of the Planning Commission thereon, and heard and considered written and oral testimony regarding the proposed Zone Amendment; and

WHEREAS, based upon such evidence, testimony and staff reports, this Council finds that Zone Amendment ZA15-00008 conforms to the General Plan and Local Coastal Program of the City of Oceanside; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California and State Guidelines;

NOW, THEREFORE, the City Council of the

EXHIBIT NO. 3

Ordinance 16-OR0513-1



Oceanside LCP-6-OCN-16-0071-2
California Coastal Commission

970

WS:

1 SECTION 1. Zone Amendment (ZA15-00008), repealing Articles 4, 6, 8.1, 9, 13,
2 13.1, 14.1, 14.2, 14.3, 14.6, 14.7, 15, 15.2, 16, 19, 20, 25, 26, 28, 29, 31, 37 and 38 of the 1986
3 Zoning Ordinance and amending Articles 22, 32, 33, 34, 36, 41, 43, and 44 of the 1992 Zoning
4 Ordinance and introducing the revised text of the Oceanside Zoning Ordinance as part of the
5 implementing document of the City's Local Coastal Program, as specified in Exhibit A, is
6 hereby adopted.

7 SECTION 2. The City Clerk of the City of Oceanside is hereby directed to publish
8 this Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen
9 (15) days after its passage in a newspaper of general circulation published in the City of
10 Oceanside.

11 SECTION 3. Severability.

12 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
13 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
14 shall not affect the validity of the remaining portions of this Ordinance. The City Council
15 hereby declares that it would have passed this Ordinance and adopted this Ordinance and each
16 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more
17 sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

18 SECTION 4. Notice is hereby given that the time within which judicial review must
19 be sought on this decision is governed by Government Code Section 65009(c).

20 SECTION 5. For properties within the Coastal Zone, this ordinance shall be effective
21 upon certification of Local Coastal Plan Amendment (LCPA15-00004) by the California
22 Coastal Commission. For properties outside of the Coastal Zone, this ordinance shall be
23 effective 30 days after its adoption.

24 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
25 California, held on the 22nd day of June, 2016, and, thereafter,

26 ///

27 ///

28 ///

1 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
2 Oceanside, California, held on the 10th day of August, 2016, by the following vote:

3 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

4 NAYS: NONE

5 ABSENT: NONE


6 ABSTAIN: NONE

7 
8 MAYOR OF THE CITY OF OCEANSIDE

9 ATTEST:

APPROVED AS TO FORM:

10 
11 CITY CLERK

12 
13 CITY ATTORNEY

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28 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE REPEALING ARTICLES 4,
6, 8, 1, 9, 13, 13.1, 14.1, 14.2, 14.3, 14.6, 14.7, 15, 15.2, 16, 19, 20, 25, 26, 28, 29, 31, 37 AND 38 OF THE
1986 ZONING ORDINANCE, AMENDING ARTICLES 22, 32, 33, 34, 36, 41, 43 AND 44 OF THE 1992
ZONING ORDINANCE AND ESTABLISHING THE AMENDED TEXT AS PART OF THE
IMPLEMENTING DOCUMENT OF THE LOCAL COASTAL PROGRAM

**Subject LCPA Only Affects Articles
4, 4a, 11, 12, 36, 41, & 41c**

ORDINANCE NO. 16-OR0690-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE TO AMEND ARTICLE 11 OF THE 1986 ZONING ORDINANCE, ARTICLES 4, 11, 13, 36, AND 41/41C OF THE 1992 ZONING ORDINANCE AND ARTICLES 4A AND 12 OF THE DOWNTOWN D-DISTRICT ZONING RELATED TO ADULT ORIENTED USES AND TATTOO ESTABLISHMENTS (ZA-16-00004)

WHEREAS, the City of Oceanside has conducted a comprehensive review of its zoning ordinances, including the 1986 Zoning Ordinance applicable in the coastal zone, the 1992 Zoning Ordinance applicable in the inland areas of the City and the Downtown D-District Zoning applicable in the redevelopment project area; and

WHEREAS, the purpose of the City's review has been to ensure that land uses that are protected by the First Amendment of the United States Constitution, including adult-oriented land uses and tattoo establishments, are subject to constitutionally defensible zoning regulations; and

WHEREAS, the proposed zone amendment (ZA-16-00004) was reviewed by the City's Planning Commission at a duly noticed public hearing on September 12, 2016 and the Commission unanimously recommended that the City Council adopt the proposed amendment; and

WHEREAS, the Environmental Review officer of the City has determined the project will not, in and of itself, occasion land development or any other material change to the environment, and therefore has determined the project is exempt from California Environmental Quality Act (CEQA) review under CEQA Guidelines section 15061(b)(3); and

WHEREAS, a public hearing was properly noticed for September 21, 2016 in accordance with all applicable legal requirements to consider the recommendation of the Planning Commission; and

WHEREAS, a seven volume administrative record of tattoo establishments has been prepared to identify the land uses and businesses; and

EXHIBIT NO. 4

Ordinance 16-OR0690-1



Oceanside LCP-6-OCN-16-0071-2
California Coastal Commission

1 WHEREAS, after consideration of all evidence presented to the City Council, the City
2 Council makes the following findings with respect to tattoo establishments and adult oriented
3 businesses:

4 Findings – Tattoo Establishments

- 5
- 6 A. The City Council has a reasonable basis to believe that there are land use
7 compatibility issues relating the siting of tattoo facilities and their customers when
8 located adjacent to residential uses. Through its zoning code provisions, the City of
9 Oceanside seeks to maintain property values, protect tax revenues, provide
10 neighborhood social and economic stability, attract business and industry, and
11 encourage conditions that make the City of Oceanside a pleasant place to live and
12 work.
- 13 B. The City Council has a reasonable basis to believe that it is important from a land use
14 compatibility perspective to buffer tattoo facilities from sensitive land uses such as
15 residential zones, schools, parks, and day care facilities while allowing a wide range
16 of potential alternative sites and, as well, to have a buffer between regulated uses to
17 prevent their concentration within one part of the City. These buffer provisions will
18 serve to: (1) protect the quality of life and neighborhoods in the City; (2) protect the
19 City's retail and commercial trade; (3) minimize the potential for nuisances related to
20 the operation of tattoo establishments; (4) protect the well-being, tranquility and
21 privacy of the home with the residential buffer; and (5) protect the peace, welfare,
22 and privacy of persons who own, operate and/or patronize tattoo establishments.
- 23 C. The City Council also desires to avoid the clustering of tattoo establishments so that
24 the City does not experience a significant change in the character of the community.
25 Tattoo establishments have the potential to have a detrimental impact individually or
26 when located in close proximity to each other, can create a "skid row" atmosphere,
27 and have a deleterious effect upon adjacent areas. For example, Oceanside's
28 downtown area has been the subject of substantial redevelopment and the addition of
new businesses that are attractive to families and tourists. It is important that the
character of the downtown area remain family and tourist-oriented. The buffer
restrictions applicable to tattoo establishments serves to preserve this interest.
Furthermore, the area of south Oceanside has seen a revitalization in the past several
years and it is important that this residential zoned areas be preserved, and that
adjacent neighborhood serving commercial and visitor serving establishments be
preserved and maintained. The City recognizes that the tattoo establishments serve as
a specialty destination service and accordingly, is not compatible to place such

1 facilities within 500 feet of a residential zone because it would contribute to
2 neighborhood blight and is not consistent with and would not serve to protect the
3 commercial zones that are designed to offer the neighborhood needed commercial
4 services.

5 D. The City's certified Local Coastal Program ("LCP") provides that, "[i]n granting
6 approvals for new development within the Coastal Zone, the City shall give priority
7 to visitor serving commercial recreation facilities over private residential, general
8 industrial or general commercial uses". According to the City's Land Use Plan
9 (LUP), a component of the LCP, the visitor serving commercial land use category
10 "encompasses specialized commercial uses which are directly dependent supportive
11 or related to the coast. Such uses provide services or goods for coastal industries or
12 recreationalists, and include boat sales, supplies, and services; diving, commercial
13 fishing, and sport-fishing establishments; restaurants, snack bars, and convenience
14 markets; gift, sundries, and novelty shops; tourist-cottages, campgrounds, and
15 recreational vehicle parks; and recreational equipment rentals (such as bicycles, roller
16 skates, surfboards)." A tattoo establishment is not a visitor serving use. This
17 Ordinance advances the City's interest in implementing its LCP.

18 E. The City has a reasonable basis to believe, based on its own experience, along with
19 those of other communities including the cities of Vista, Signal Hill, Santa Clara,
20 Torrance, Hermosa Beach, and Ventura as to the secondary effects of tattoo
21 establishments in its community may lead to detrimental effects including noise,
22 light, traffic, and parking compatibility issues with neighboring residential zones. The
23 City is aware of other communities experience and based on its own experience is
24 concerned for the potential for criminal activity from tattoo parlors and their potential
25 to attract the criminal element, especially gangs.

26 F. Specifically, the City takes note of the Oceanside's Police Crime Analysis report
27 dated July 27, 2016 that documents increased criminal activity from tattoo facilities
28 in Oceanside. Such criminal activity is not compatible with adjacent residential uses.
The City takes note that within Oceanside, since January 2013, Oceanside PD has
received 34 Calls for Police Service (CFS) at Oceanside's 3 tattoo parlors; About
Face, Frontline and Body Temple. The About Face Tattoo shop is located downtown
at 423 S. Coast Hwy and has generated the most CFS, with 17 calls between 2013
and July 2016. In addition, since January 2005, Oceanside PD has received 73 CFS at
About Face Tattoo shop which accounts for 92% more CFS than the neighboring
barbershop; and 564% more CFS than the neighboring day spa. CFS at all 3 tattoo
shops include calls related to fights, public disturbances, property crimes, calls for

1 violent activity; none of which are compatible with adjacent schools, daycares or
2 residential zones. In one case, a known drug user was displaying a weapon which
3 required police officers to deploy a taser in order to arrest the suspect.

4 G. The City Council also takes note of the August 2014 investigation of a felony battery
5 at Power Tattoo located in the neighboring city of Vista where an individual was
6 assaulted by 20-30 people at a tattoo facility event. In addition, the City of Santa
7 Clara Police Department conducted a study on secondary effects of crime from
8 regulated businesses, which include tattoo shops, and concluded that these shops can
9 be a magnet for organized crime, gang activity, loitering, and increased police calls.
10 And, the City also takes note that in May 2011, the Los Angeles Police Department
11 and federal agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives,
12 arrested nineteen alleged members of the gang Venice 13 at a tattoo parlor called
13 'Villainz Ink' that attracted a number of suspected criminal street gang members and
14 associates who, in the course of a four-month investigation, sold illegal narcotics,
15 committed numerous firearms violations, and sold a firearm to an ATF undercover
16 agent.

17 H. The City Council has a reasonable basis to be concerned over the criminal activity
18 associated at tattoo facilities affiliated with the outlaw gang known as the Hells
19 Angels based on the City's own experience and those of neighboring jurisdictions.
20 The Hells Angels are involved in the production, transportation, and distribution of
21 marijuana and methamphetamine. Additionally, the Hells Angels are involved in the
22 transportation and distribution of cocaine, hashish, heroin, LSD (lysergic-acid
23 diethylamide), ecstasy, PCP (phencyclidine), and diverted pharmaceuticals. The Hells
24 Angels are involved in other criminal activity including assault, extortion, homicide,
25 money laundering, and motorcycle theft." [https://www.justice.gov/criminal-](https://www.justice.gov/criminal-ocgs/gallery/outlaw-motorcycle-gangs-omgs)
26 [ocgs/gallery/outlaw-motorcycle-gangs-omgs](https://www.justice.gov/criminal-ocgs/gallery/outlaw-motorcycle-gangs-omgs). Moreover, according to a 2015 report
27 by the National Gang Intelligence Center ("FBI Report"), the most common criminal
28 activities committed by outlaw motorcycle gangs over the past two years have
included weapons possession, threats and intimidation, assault, and drug trafficking.
The FBI Report documents a March 2014 incident in which two Hells Angels
members sought medical treatment for stab wounds sustained during an altercation
with rival gang members on a freeway near Temecula, California. The injured Hells
Angels members were not willing to cooperate with law enforcement or say who was
responsible for their injuries. According to the report, outlaw motorcycle gang
members are increasingly involved in self-owned businesses (in particular tattoo
parlors) and that some of these businesses are used to facilitate criminal activity.
<https://www.fbi.gov/image-repository/pub3.jpg/view>.

1 I. Zoning and locational regulations for tattoo establishments are necessary to prevent
2 deterioration and/or degradation of the vitality of the community before the problem
3 exists, rather than waiting for problems to be created. Buffer requirements are a
4 legitimate and reasonable means of ensuring against the negative secondary effects of
5 tattoo facilities and to balance the various land uses in order to minimize and control
6 problems associated with such businesses and thereby protect the health, safety and
7 welfare of Oceanside residents, preserve the quality of life, and preserve the character
8 of surrounding neighborhoods. The buffer requirements of the City do not
9 unreasonably restrict the establishment or operation of constitutionally protected
10 adult businesses in Oceanside. The City Council recognizes that these buffer
11 requirements do not preclude reasonable alternative avenues of communication and
12 that there are several hundred potentially available sites for tattoo establishments.
13 And, Oceanside is already home to three (3) existing tattoo establishments, a fourth is
14 undergoing tenant improvements, and there is a wide menu of potential sites for other
15 prospective users to select from in this seaside community.

16 J. The City is concerned as to the health and well-being of adolescents within the
17 community and is aware of prior studies conducted which have shown an association
18 between adolescents who obtain tattoos and their involvement in high-risk behaviors
19 that are detrimental to their health and welfare. The City Council has a reasonable
20 basis to conclude that businesses offering tattoo services may result in negative
21 impacts on sensitive uses, such as residential and educational institutions serving
22 persons under 21 years of age. The City Council reasonably believes that in its
23 community, a buffer from schools decreases the accessibility of such shops to high
24 school aged persons. Similarly, in the south Oceanside area, minors are located in
25 these adjacent residential zones and this buffer will serve to decrease the accessibility
26 to minors as well. The prior study titled "Tattooing and High-Risk Behavior in
27 Adolescents," shows that this type of use (tattoo establishments) demonstrates a link
28 between the tattooing of high school aged persons and a propensity to engage in other
high-risk behaviors including gang affiliation, substance abuse, and violence. The
Council takes legislative note of Sable Commission of California, Inc. v. FCC (1989)
492 U.S. 115 wherein the Court found that there is a compelling interest in protecting
the physical and psychological well-being of minors.

K. The City of Oceanside has a reasonable basis to believe that there are serious health
issues at play in the provision of tattoos. The City is aware that the practice of
providing tattoos, through the use of implements which pierce the skin, create an
increased risk of the transfer of blood borne diseases. Tattoo inks, dyes, and
pigments have not been approved by the FDA and the health consequences of using
these products are unknown. This applies to all tattoo pigments, including those used
for ultraviolet (UV) and glow-in-the dark tattoos. Many pigments used in tattoo inks

1 are industrial-grade colors suitable for printers' ink or automobile paint. And, the use
2 of henna in temporary tattoos has not been approved by FDA. Henna is currently
3 approved only for use as a hair dye.

4
5 L. Tattooing carries the risk of infection and transmission of disease if unsanitary
6 conditions are present or unsterile equipment is used. The Centers for Disease
7 Control and Prevention ("CDC") and the United States Food and Drug
8 Administration ("FDA") confirm the significant health risks of tattooing. CDC,
9 Body Art: Tattoos and Piercings (Jan. 21, 2008) (noting risks of infection,
10 tuberculosis, Hepatitis B and C, and HIV). FDA, Tattoos and Permanent Makeup
11 (Nov. 29, 2000) (discussing the risks of infection, removal problems, potential
12 allergic reactions, and MRI complications). Research has also shown that some
13 pigment migrates from the tattoo site to the body's lymph nodes. Lymph nodes are
14 part of the lymphatic system, a collection of fluid-carrying vessels in the body that
15 filter out disease-causing organisms. Whether the migration of tattoo ink has health
16 consequences or not is still unknown. The National Center for Toxicological
17 Research (NCTR) is doing further research to answer this and other questions about
18 the safety of tattoo inks.

19
20 M. The City Council is mindful of legal principles relating to regulation of tattoo
21 establishments, and the City Council does not intend to suppress or infringe upon any
22 expressive activities protected by the First Amendment of the United States and
23 California Constitutions but instead desires to enact reasonable time, place, and
24 manner regulations that address the adverse effects of tattoo establishments. The
25 City Council has considered the following decisions: *Anderson v. Hermosa Beach*
26 (9th Cir. 2010) 621 F.3d 1051; *Buehrle v. Key West* (11th Cir. 2015) 813 F.3d 973;
27 *Ward v. Rock Against Racism* (1989) 491 U.S. 78; and *City of Renton v Playtime*
28 *Theaters* (1986) 475 U.S. 41. As well, the City Council is mindful of the district
court decision rendered this past June 2016 by USDC Stephen Wilson in the federal
lower court matter of Tiffany Garcia v. City of Torrance.

23 Findings Adult-Oriented Uses

24 A. The City of Oceanside has certain provisions found in its Zoning Ordinance
25 relating to locational criteria including zoning and buffer requirements for adult-
26 oriented businesses that are in need of refinement. The City Council finds that it is
27 necessary and appropriate to amend various provisions of the Zoning Ordinance to
28 add, refine and update the provisions relating to planning and zoning standards for
adult-oriented businesses operating within Oceanside. The public health, safety
and welfare of the City and its residents require the enactment of this Ordinance in

1 order to: (1) mitigate and reduce the judicially recognized potential adverse
2 secondary effects of adult-oriented businesses, including but not limited to crime,
3 the prevention of blight in neighborhoods and the increased threat of the spread of
4 sexually transmitted diseases; (2) protect the quality of life and neighborhoods in
5 the City, the City's retail and commercial trade, and local property values, and
6 minimize the potential for nuisances related to the operation of sexually oriented
7 businesses; and (3) protect the peace, welfare and privacy of persons who own,
8 operate and/or patronize sexually oriented businesses.

9
10 B. The City Council finds that the revisions to the City's Zoning Ordinance
11 implemented by this Ordinance are necessary in order to respond to recent
12 developments within the regulation of adult uses and case law and in order to
13 protect the City from the potential adverse secondary effects of adult-oriented
14 businesses, including crime, the protection of the City's retail trade, maintenance
15 of property values, protecting and preserving the quality of the City's
16 neighborhoods and the City's commercial districts, and the protection of the City's
17 quality of life, based on the referenced studies and the findings set forth herein.
18 Specifically, the revisions and amendments to the City's Zoning Ordinance
19 included in this Ordinance are essential and necessary to ensure the orderly land
20 use regulation as to adult-oriented business uses within the City and thereby
21 protect the public peace, safety and general welfare in the City of Oceanside.

22
23 C. The City Council, in adopting this Ordinance, takes legislative notice of the
24 existence and content of the following studies concerning the adverse secondary
25 side effects of adult-oriented businesses in other cities: Austin, Texas (1986);
26 Indianapolis, Indiana (1984); Garden Grove, California (1991); Seattle,
27 Washington (1989); Houston, Texas (1997); Phoenix, Arizona (1979); Tucson,
28 Arizona (1990); Chattanooga, Tennessee (2003); Los Angeles, California (1977);
Whittier, California (1978); Spokane, Washington (2001); St. Cloud, Minnesota
(1994); Littleton, Colorado (2004); Oklahoma City, Oklahoma (1986); Dallas,
Texas (1997 and 2007); Ft. Worth, Texas (2004); Kennedale, Texas (2005);
Greensboro, North Carolina (2003); Amarillo, Texas (1977); Cleveland, Ohio
(1977); Newport News, Virginia (1996); Jackson County, Missouri (2008);
Louisville, Kentucky (2004); New York, New York (1994); New York Times
Square (1994); Beaumont, Texas (1982); the Report of the Attorney General's
Working Group On The Regulation Of Sexually Oriented Businesses (June 6,
1989, State of Minnesota); A Methodological Critique of the Linz-Paul Report: A
Report to the San Diego City Attorney's Office (2003); Summaries of Key Reports
Concerning the Negative Secondary Effects of Sexually Oriented Businesses, by

1 Louis Comus III (2001). The City Council finds that these studies are relevant to
2 the problems addressed by the City in enacting this Ordinance to regulate the
3 adverse secondary side effects of adult-oriented businesses, and more specifically
4 finds that these studies provide convincing evidence that:

5 1. Adult-oriented businesses, as a category of uses, are associated with a wide
6 variety of adverse secondary effects including, but not limited to, personal and
7 property crimes, prostitution, potential spread of disease, lewdness, public
8 indecency, obscenity, illicit drug use and drug trafficking, negative impacts on
9 surrounding properties, urban blight, liner, traffic, noise, and sexual assault
10 and exploitation.

11 2. The studies from other cities establish by convincing evidence that adult-
12 oriented businesses often have a deleterious effect on nearby businesses and
13 residential areas, causing, among other adverse secondary effects, an increase
14 in crime and a decrease in property values. Buffering and locational
15 regulations for adult-oriented businesses should be developed to prevent
16 deterioration and/or degradation of the vitality of the community before the
17 problem exists, rather than waiting for problems to be created.

18 D. In developing this Ordinance, the City Council is mindful of legal principles
19 relating to regulation of adult-oriented businesses, and the City Council does not
20 intend to suppress or infringe upon any expressive activities protected by the First
21 Amendment of the United States and California Constitutions but instead desires
22 to enact reasonable time, place, and manner regulations that address the adverse
23 secondary effects of adult-oriented businesses. The City Council takes legislative
24 notice of the:

25 1. Decisions of the United States Supreme Court regarding local regulation of
26 adult-oriented businesses including, but not limited to: *City of Littleton v. Z.J.*
27 *Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books,*
28 *Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M. ("Kandyland")*, 529 U.S.
277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986);
Young v. American Mini Theatres, 427 U.S. 50 (1976); *Barnes v. Glen*
Theatre, Inc., 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972);
N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); *Sewell v.*
Georgia, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215
(1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989).

1 2. Decisions of the Ninth Circuit Court of Appeals addressing adult-oriented
2 businesses including but not limited to: *Alameda Books, Inc. v. City of Los*
3 *Angeles*, 631 F.3d 1031 (9th Cir. 2011); *Fantasyland Video, Inc. v. County of*
4 *San Diego*, 505 F.3d 996 (9th Cir. 2007); *Tollis, Inc. v. County of San Diego*,
5 505 F.3d 935 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114
6 (9th Cir. 2005), amended 402 F.3d 875; *World Wide Video of Washington, Inc.*
7 *v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Dream Palace v. County of*
8 *Maricopa*, 384 F.3d 990 (9th Cir. 2004); *Talk of The Town v. Department of*
9 *Finance and Business Services*, 343 F.3d 1063 (9th Cir. 2003); *Deja Vu-*
10 *Everett-Federal Way, Inc. v. City of Federal Way*, 46 Fed.Appx. 409 (9th Cir.
11 2002); *Clark v. City of Lakewood*, 259 F.3d 996 (9th Cir. 2001); *Isbell v. City*
12 *of San Diego*, 258 F.3d 1108 (9th Cir. 2001); *Isbell v. City of San Diego*, 450
13 F.Supp.2d 1143 (S.D. Cal. 2006); *Diamond v. City of Taft*, 215 F.3d 1052 (9th
14 Cir. 2000); *L.J. Concepts, Inc. v. City of Phoenix*, 215 F.3d 1333 (9th Cir.
15 2000); *Lim v. City of Long Beach*, 217 F.3d 1050 (9th Cir. 2000); *Young v.*
16 *City of Simi Valley*, 216 F.3d 807 (9th Cir. 2000); *4805 Convoy, Inc. v. City of*
17 *San Diego*, 183 F.3d 1108 (9th Cir. 1999); *North v. City of Gilroy*, 78 F.3d
18 594 (9th Cir. 1996); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th
19 Cir. 1996); *Topanga Press, Inc. v. City of Los Angeles*, 989 F.2d 1524 (9th
20 Cir. 1993); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); and
21 *Lydo Entertainment v. Las Vegas*, 745 F.2d 1211 (9th Cir. 1984).

22 3. Decisions of the State of California addressing adult-oriented businesses
23 including: *Madain v. City of Stanton*, 185 Cal.App.4th 1277 (2010); *Krontz v.*
24 *City of San Diego*, 136 Cal.App.4th 1126 (2006); *Lacy Street Hospitality*
25 *Service, Inc. v. City of Los Angeles*, 125 Cal.App.4th 526 (2004); *Department*
26 *of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board*
27 *and Renee Vicary*, 99 Cal.App.4th 880 (2002); *Tily B., Inc. v. City of Newport*
28 *Beach*, 69 Cal.App.4th 1 (1998); *Sundance Saloon, Inc. v. City of San Diego*,
213 Cal.App.3d 807 (1989); *7978 Corporation v. Pitchess*, 41 Cal.App.3d 42
(1974); *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175
Cal.App.3d 980 (1985); *E.W.A.P., Inc. v. City of Los Angeles*, 56 Cal.App.4th
310 (1997); *City of Vallejo v. Adult Books*, 167 Cal.App.3d 1169 (1985); *City*
of National City v. Wiener, 3 Cal.4th 832 (1992); and *People v. Superior*
Court (Lucero), 49 Cal.3d 14 (1989).

26 E. The negative secondary effects from adult-oriented businesses constitutes a harm
27 which the City has a substantial government interest in preventing and/or abating.
28 This substantial government interest in preventing secondary effects, which is the
City's rationale for this Ordinance, exists independent of any comparative analysis
between adult-oriented and non-adult-oriented businesses. Additionally, the City's

1 interest in regulating adult-oriented businesses extends to preventing future
2 secondary effects of either current or future adult-oriented businesses that may
3 locate in the City. The City finds that the cases and documentation relied on in this
4 Ordinance are reasonably believed to be relevant to said secondary effects. The
5 City refers to and incorporates by reference, the record of cases and documentation
6 relating to secondary effects associated with adult- oriented businesses which will
7 remain on file with the City Clerk.

8
9 F. Locational criteria are a legitimate and reasonable means of ensuring that adult
10 businesses are conducted in a manner so as to minimize their adverse secondary
11 effects and thereby protect the health, safety, and welfare of the City's residents,
12 protect citizens from increased crime, preserve the quality of life, preserve
13 property values and the character of surrounding neighborhoods and businesses,
14 and deter the spread of urban blight. The locational requirements contained in this
15 Ordinance do not unreasonably restrict the establishment or operation of
16 constitutionally protected adult businesses in Oceanside and a sufficient and
17 reasonable number of alternative locations for adult-oriented businesses are
18 provided by this Ordinance. The City Council takes legislative notice of the
19 United States Supreme Court decision in Renton that requires that adult businesses
20 be provided a reasonable opportunity to open and operate. The City Council also
21 takes legislative notice of the Ninth Circuit's decisions in Topanga Press, Lim and
22 Isbell with respect to availability of sites for adult businesses and finds that under
23 the distance and locational restrictions imposed by this Ordinance there are
24 sufficient sites available for adult-oriented businesses within Oceanside.

25
26 G. Relying on the following, the City finds that adult-oriented businesses in its
27 community may lead to detrimental secondary effects including prostitution and
28 engagement in unlawful sexual activity. The City bases this conclusion on the
experiences of Oceanside, as well as that of other California communities, such as
La Habra and Arcadia, which the City has a reasonable basis to believe reflect the
experiences of its own community, including numerous police reports and
affidavits from those communities, and judicial decisions in the public record:

1. Evidence indicates that some dancers, models, entertainers, performers, and
other persons who publicly perform specified sexual activities or publicly
display specified anatomical areas in adult-oriented businesses (collectively
referred to as "performers") have been found to engage in sexual activities
with patrons of adult-oriented businesses on the site of the adult-oriented
business.

1 2. Evidence has demonstrated that performers employed by adult-oriented
2 businesses have been found to offer and provide private shows to patrons who,
3 for a price, are permitted to observe and participate with the performers in live
4 sex shows.

5 3. Evidence indicates that performers at adult-oriented businesses have been
6 found to engage in acts of prostitution with patrons of the establishment.

7 4. Evidence indicates that fully enclosed booths, individual viewing areas, and
8 other small rooms whose interiors cannot be seen from public areas of the
9 establishment regularly have been found to be used as locations for engaging
10 in unlawful sexual activity.

11 5. As a result of the above, and the increase in incidents of HIV, AIDS, and
12 hepatitis B, which are sexually transmitted or blood borne diseases, the City
13 has a substantial interest in adopting regulations that will reduce the possibility
14 for the occurrence of prostitution and unlawful sex acts at adult-oriented
15 businesses in order to protect the health, safety, and well-being of its citizens.
16 The City finds this is relevant to Oceanside and the need to regulate the
17 secondary effects of adult-oriented businesses within the community.

18 H. The City Council recognizes and relies on the findings set forth in the 1986
19 Attorney General's Report on Pornography. A copy of the Attorney General's
20 Report on Pornography is available for public review at the City Clerk's office.

21 I. The City Council recognizes the possible harmful effects on children and minors
22 exposed to the effects of adult-oriented businesses and recognizes the need to
23 enact regulations which will minimize and/or eliminate such exposure. The City
24 Council takes legislative notice of the Penal Code provisions authorizing local
25 governments to regulate matter that is harmful to minors (i.e., Penal Code § 313 et
26 seq.). The City Council further takes legislative notice of the cases that recognize
27 that protection of minors from sexually explicit materials is a compelling
28 government interest, including *Crawford v. Lungren*, 96 F.3d 380 (9th Cir. 1996)
and *Berry v. City of Santa Barbara*, 40 Cal.App.4th 1075 (1995).

J. While the City Council is obligated to protect the rights conferred by the United
States Constitution to adult-oriented businesses, it does so in a manner that ensures
the continued and orderly use and development of property within the City and
diminishes, to the greatest extent feasible, those undesirable adverse secondary

1 effects which the above mentioned studies have shown to be associated with the
2 operation of adult-oriented businesses.

3
4 K. Zoning and locational restrictions are a legitimate and reasonable means of helping
5 to reduce the secondary effects from adult-oriented businesses and thereby protect
6 the health, safety, and welfare of Oceanside residents, protect citizens from
7 increased crime, preserve the quality of life, and preserve the character of
8 surrounding neighborhoods and businesses, and deter the spread of urban blight.
9 The zoning and locational requirements contained in this Ordinance do not
10 unreasonably restrict the establishment or operation of constitutionally protected
11 adult-oriented businesses in Oceanside.

12 L. The City Council in recognizing that these standards do not preclude reasonable
13 alternative avenues of communication and notes that the proliferation of adult-
14 oriented material on the Internet, satellite television, direct television, CDs, DVDs,
15 all provide alternative avenues of communication. Additionally, the City Council
16 takes note that numerous web-based services, such as www.sugardvd.com and
17 www.wantedlist.com, deliver adult videos and DVDs directly to customers' homes
18 via the mail. The City Council recognizes the following review of one of these
19 web-based services: "SugarDVD has made it so easy to rent and view adult
20 movies, you may never leave your house again ... SugarDVD is discreet with quick
21 turnaround times and a massive selection ... SugarDVD offers six rental plans,
22 catering to the casual porn viewer and diehards who can never get enough hard-
23 core fare." (Hustler Magazine, January 2006.) The City Council also considers
24 and relies on published decisions examining the proliferation of communications
25 on the Internet. *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997) [the
26 principle channel through which many Americans now transmit and receive
27 sexually explicit communication is the Internet]; *Anheuser-Busch v. Schmoke*, 101
28 F.3d 325 (4th Cir. 1996) [the Fourth Circuit rejected a First Amendment challenge
to a Baltimore ordinance restricting alcohol advertisements on billboards
acknowledging that the Internet is one available channel of communication]; *U.S.*
v. Hockings, 129 F.3d 1069 (9th Cir. 1997); see also *U.S. v. Thomas*, 74 F.3d 701
(6th Cir. 1996) [recognizing the Internet as a medium for transmission of sexually
explicit material in the context of obscenity prosecutions]. The Internet brings
with it a virtually unlimited additional source of adult-oriented sexual materials
available to interested persons in every community with a mere keystroke. An
adult-oriented business no longer has to be "actually" physically located in a city to
be available in the community.

1 M. The City Council recognizes that adult devices (i.e. adult novelties and/or adult
2 related products) such as dildos, fur-lined handcuffs, leather whips, anal beads, and
3 devices that are physical representations of human genital organs, are not speech
4 and enjoy no First Amendment protections. (See *Ford v. State of Texas*, 753
5 S.W.2d 451, 452-453 (1988); *Sewell v. State of Georgia*, 233 S.E.2d 187, 188-189
6 (1977); *Chamblee Visuals, LLC v. City of Chamblee*, 506 S.E.2d 113, 115 (1998);
7 and *Red Bluff Drive-In, Inc. v. Vance*, 648 F.2d 1020 (5th Cir. 1981).

8 N. It is not the intent of the City Council in enacting this Ordinance, or any provision
9 thereof, to condone or legitimize the distribution of obscene material, and the City
10 and its Council recognize that state law prohibits the distribution of obscene
11 materials and expect and encourage law enforcement officials to enforce state
12 obscenity statutes against such illegal activities in Oceanside.

13 O. The City Council does not intend to regulate in any area preempted by California
14 law including, but not limited to, regulation of obscene speech, nor is it the intent
15 of the City Council to preempt regulations of the state Alcoholic Beverage Control
16 Department ("ABC").

17 P. Nothing in this Ordinance is intended to authorize, legalize, or permit the
18 establishment, operation, or maintenance of any business, building, or use which
19 violates any other City ordinance in any respect, or any statute of the State of
20 California regarding public nuisances, unlawful or indecent exposure, sexual
21 conduct, lewdness, obscene or harmful matter, or the exhibition or public display
22 thereof.

23 Q. On September 12, 2016, the Planning Commission Council held a duly noticed
24 public hearing during which it allowed for public input and testimony concerning
25 this proposed Ordinance. At the conclusion of the public hearing the Planning
26 Commission recommended this Ordinance to the City Council for approval.

27 R. On September 21, 2016, the City Council held a duly noticed public hearing during
28 which it received input and testimony and considered the adoption of this
Ordinance.

1 NOW, THEREFORE, the City Council of the City of Oceanside does ordain as follows:

2 SECTION 1. Zone Amendment ZA 16-00004 is hereby adopted.

3 SECTION 2. The City Clerk of the City of Oceanside is hereby directed to publish this
4 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
5 days after its passage in a newspaper of general circulation published in the City of Oceanside.

6 SECTION 3. Severability.

7 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be
8 invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision
9 shall not affect the validity of the remaining portions of this Ordinance. The City Council
10 hereby declares that it would have passed this ordinance and adopted this Ordinance and each
11 section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,
12 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

13 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30th) day
14 from and after its final passage.

15 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,
16 California, held on the 21st day of September, 2016, and, thereafter,

17 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
18 Oceanside California, held on the 12th day of October, 2016, by the following vote:

19 AYES: WOOD, FELLER, KERN, LOWERY, SANCHEZ

20 NAYS: NONE

21 ABSENT: NONE

22 ABSTAIN: NONE


23
24
25 ATTEST:

26
27 CITY CLERK

28

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:


CITY ATTORNEY

Articles Proposed for Repeal – Includes all Text in Strike-Out and Not in Strike-Out

ARTICLE 15

CONDITIONAL USE PERMITS

Section 1500: PURPOSE. All of the following uses, and all matters directly related to such uses, are declared to be used possessing such unique and special characteristics as to make it impractical for them to be automatically included within some or any of the zoning districts defined in this Ordinance. The location and operation of any of these uses shall be subject to the review and issuance of a Conditional Use Permit (CUP).

The purpose of review shall be to determine whether the characteristics of any such use are compatible with the types of uses generally permitted in the surrounding area, and further, to stipulate such reasonable conditions as may be deemed necessary to assure that the basic purposes of this ordinance are being served.

Section 1501: REQUIRED SHOWING FOR CONDITIONAL USE PERMITS. Prior to the granting of a conditional use permit it shall be shown by the applicant:

- (a) That the proposed use at the particular location, if not allowed by right within other zones, is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or community. (Those uses in which an asterisk (*) appears in the margin on the table as contained in Section 106 are the only uses to which this paragraph applies).
- (b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace or general welfare of persons residing or working in the vicinity.
- (c) That the site for the proposed use is adequate in size and is so shaped as to accommodate said use, as well as all yards, spaces, walls, fences, parking, loading, landscaping, and any other features necessary to adjust said use with the land and uses in the neighborhood and make it compatible.
- (d) That the site abuts streets of adequate width and improvements to streets of a type typical of the proposed uses, and that no other uses of such a nature exist as to guarantee that such

EXHIBIT NO. 5

Articles Proposed for Repeal



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California Coastal Commission

generations will not be channeled through residential areas on local residential streets.

- (e) That the granting of such conditional use permit will not adversely affect the General Plan of the City, any other adopted plan of the City, or the adopted plan of any other governmental agency.

Section 1502: CONDITIONAL USES APPROVED BY ACTION OF THE PLANNING COMMISSION. Section 1506 designates those uses which require conditional use permits. Such permits will only be granted within the zones indicated. In some cases the use is permitted within certain zones as a matter of right and conditional use permits will not be required in those cases. The Planning Commission may grant a conditional use permit upon application in accordance with Article 21 of this Ordinance. The Planning Commission's action on such applications shall be final unless appealed to the City Council as provided in Article 21.

Section 1503: EXISTING REGULATIONS. Any existing regulations applicable to property upon which an application for a conditional use permit has been required may be increased by the Planning Commission as a condition of the granting of the conditional use permit. This includes, but is not limited to, signs, fences, walls, height restrictions, density, yards, building coverage and off-street parking.

Section 1504: AMENDMENT TO A CONDITIONAL USE PERMIT. An amendment to a conditional use permit may be granted by the Planning Commission by application filed pursuant to the procedures set forth herein for the granting of a permit, except that an application for amendment of such a permit not affecting the period, the uses allowed, or the public improvements or access provided, may be made by letter to the issuing body and such amendment may be granted at a regular meeting after hearing, but without published notice.

The City Planner and the Building Official may approve, by their endorsement on the approved plan for a conditional use permit, minor modifications in construction which do not substantially alter the plan or the use permitted. Such minor modifications shall be reported to the authority which has issued the permit.

Section 1505: (Deleted by Ordinance No. 84-05)

Section 1506: USES REQUIRING CONDITIONAL USE PERMITS. The following uses require conditional use permits within the zones indicated. Such permits shall be issued in accordance with the provisions of this Ordinance.

(1) Allowed within zone by right.

(X) Allowed within zone after granting of CUP.

(no mark) Not allowed within zone.

(*) Must show desirability and necessity as contained in Section 1501.a.

	F	O	R	A	A	A	S	R	P	R	R	R	R	R	P	O	T	C	C	I	M	M	C	M	P	V	S	H
			A	2	5	2	P	1	R	2	3	T	C	P	C	P	C	1	2	P	1	2	M		C	C	S	
			1			0			D															D				
Acid manufacture																						X		X	X			
Adult book stores- sexually-oriented															X				X									
Airports, heliports, landing fields			X	X	X	X						X	X		X	X	X	X	X	X	X	X	X	X	X			
Ambulance services														X		X	X		X						X			
Amusement parks				X	X	X						X		X		X		X							X	X		
Animal foods processing																						X		X	X			
Apartments - 20 units or more									X		X	X	X	1	X	X	1	X	X						X		X	
*Apartments - less than 20 units (subject to R-3 standards)									X		1	1	X	1	X	X	1	X	X						X		1	
Arcades													X		X		X		X					X				
Asphaltic concrete manufacture																						X		X	X			
Automobile																						X		X	X			

dismantling, junk, storage or wrecking yards																											
Automobile service stations													X		X		X	X	X	X	X	X	X	X	X		
Bars and cocktail lounges (not associated with restaurant)													X		X		X							X	X		
Bathhouses													X		X			X						X			
Boat building, repairing, storage and reconditioning																				X			X	X			
Boat building, indoor construction only, outside rigging areas permitted																			X	X			X	X			
Body studio													X		X		X							X			
Campgrounds and recreation vehicle parks		X	X	X	X	X	X						X		X			X						X			
Car washes															X		X		X					X			
Card rooms														X	X			X						X			

Cement, line, gypsum or plaster of Paris manufacture																					X		X	X			
*Cemeteries		1	X	X	X	X																		X			
***Churches and accessory uses			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X			X			
Clubs, meeting places, lodges, etc. (a) Nonprofit neighborhood area; (b) Nonprofit regional area; (c) Profit			X				X	X	X	X	X	X	X	X	X	X	X	X						X			
Columbariums, crematories, mausoleums, mortuaries		X	X	X	X	X						X	X	X	X	X	X	X						X			
Concrete batch plants or "ready- mix" concrete plants																				X			X	X			
Convenience food stores												X		X		X	X	X						X	X		
Dance halls												X		X		X		X						X			
***Day Care		X	X	X	X	X	X	X	X	X	X	X	1	X	X		X	X	X	X	X	X	X	X			

Facilities																												
Drive-in facilities												X	X					X	X						X	X		
Escort services - include "out-call"												X	X						X						X			
Expandable home			X					X	X	X	X	X	X												X			
Explosives or fireworks, manufacture of																								X		X	X	
Fertilizer manufactures																								X		X	X	
Freighting or trucking yards or terminals																								X		X	X	
Food and Beverage Kiosk												X	X					X	X							X	X	
Miniature golf courses, driving ranges (separate from standard golf course)							X					X	X		X		X	X	X							X		
*Golf course (public or private)x		1	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X		
*Greencourses (no retail sales in R-1, R-2 or SP)			1	1	1	1	X			X					X		X		X					X	X	X		

Gun shops																X		X		X						X			
High-rise structures (subject to provisions of Section 1506.C)			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Hospitals			X				X	X	X	X	X	X	X	X	X	X	X	X							X				
*Hotels and motels											X	1		X		X	X								1	X	X		
Housing (farm employees)				X	X	X																			X				
Industrial uses not listed in Articles 12 and 13																				X	X			X	X				
Institutions: (a) Alcohol and drug addicts; (b) Sanitariums (mental); (c) Jailer honor farms				X	X	X																			X				
				X	X	X																			X				
				X	X	X																			X				
*Kennels			X	X	X	X													1		1	1	1	1	1	X			
*Light equipment rental yards																X	X		X		1	1	1	1	1	X			
Liquor Store													X		X		X	X	X						X	X			
Locker clubs													X		X				X						X				

Massage parlors														X		X					X				X			
Mills, planning																					X			X	X			
Mobile home parks							X	X		X	X													X				
***Motor vehicle rental and sales (including automobile, motor bike or cycle rentals, truck, trailer, camper, motorcycle, new or used sales, rentals or swap lots)														X		X		X			X		X	X	X	X	X	
Natural mineral resources development (and related uses) X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			
Parking lots or structures (commercial)													X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Pawnshops														X		X				X					X			
**Personal Storage Facilities																X		X		X	X	X	X	X	X	X		
Petroleum products, manufacture or storage of																					X			X	X			

Poolrooms and billiard parlors														X		X		X		X							X					
Pre-case concrete structural shapes, manufacture of															X			1					X			X	X					
Private security agency															1		X	X	X		X						X					
*Public buildings or lands owned and/or operated by Federal, State, County or City	X	X	X	X	X	X	X	X	X	X	X	X		X	1	X	1	X	1	X	1	1	1	1	1	1	1	X	X	X		
Public utility stations, yards, wells and other similar facilities; electrical receiving and/or transforming stations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		
Race tracks (animal or auto), rodeos, fairground and similar facilities			X	X	X	X	X									X		X		X	X	X	X	X	X	X	X					
Radio and television transmitters - commercial			X	X	X	X										X		X		X	X	X	X	X	X	X	X					
Rap parlors																X				X							X					

*Recreation facilities (private commercial)		1	X	X	X	X	X							X	X	X		X	X	X		X	X			X	X		
*Residential care facilities in accordance with Welfare and Institutions Code SS5116			X	X	X	X	X	X		X	1															X			
Restaurant Fast Food												X	X					X	X							X	X		
Riding and/or boarding stables, riding schools and related uses (min. site area 2 acres)			X	X	X	X	X	X																		X			
Sanitary land fills	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X			
**Schools and Colleges (public and private)		1	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X				X			X			
Secondhand stores													X		X		X	X	X							X			
Self-service Laundromats (non-attendant)													X	X	X		X	X	X							X			
Sewage disposal plants			X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X	X	X	X			
Shooting gallery													X		X				X										

Signs over 35 feet			X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X	X			
Slaughter houses (poultry and rabbits)														X							X		X	X			
Stone monument works																					X		X	X			
Storage tanks for combustible material (in excess of 1,000 gallons)																					X	X	X	X			
Swap lots															X				X			X		X			
Tannery																					X		X	X			
Tattoo parlors															X				X					X			
Theaters - open air, drive-ins															X	X			X				X	X	X		
Theaters														X	X				X					X			
Temporary mobile residence for agricultural or grove caretaker (See Section 1506.A)			X	X	X	X																		X			
Temporary trailer or equipment vans (See Section 1506.B)			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	
Time-share resort projects												X	X												X	X	X

Trade and speciality schools																X	X	X	X	X	X	X	X	X	X	X	X			
Warehouses - mini (self-service)																		X				X	X	X	X	X	X			
*Worm farms			1	1	1	1	X	X		X																	X			

* Amended by Ordinance 78-05

**Amended by Ordinance 81-11

***Amended by Ordinance 81-36

Section 1506.A: MOBILE HOMES FOR AGRICULTURAL CARETAKERS. Conditional use permits approved to allow a temporary mobile home residence for an agricultural or grove caretaker shall have the following minimum requirements:

- (1) The area must have a minimum area of 20 acres of contiguous land which may be under multiple ownership or lease.
- (2) Use of the mobile home for residence of the temporary agricultural or grove caretaker shall be allowed only during the use of the land for agricultural purposes.
- (3) The agricultural or grove caretaker shall be a bona fide employee of the owner or owners of the land for which the conditional use is applicable, employed for the main purpose of caretaker.
- (4) The mobile home shall have a provision for disposal of human and other liquid waste through connection to a sewer or to a septic tank installed pursuant to permit issued by the City of Oceanside.
- (5) Installation of the mobile home shall be made in compliance with all Federal and State laws and County and City ordinances applicable.
- (6) The permit shall be granted for a maximum of five (5) years and shall be reviewed yearly by the City Planner to determine whether the use permitted is carried out in compliance with conditions set forth in the conditional use permit. In the event it is determined that there is a failure to comply with the above conditions, the permit may be revoked by the Planning Commission after notice in writing given no less than ten (10) days prior to hearing by mail to the owners of the property subject to the conditional use permit at the last address shown on the last equalized tax assessment roll.

Section 1506.B: TRAILERS OR EQUIPMENT VANS.

- (1) Temporary trailer or equipment vans will only be allowed for the use by financial institutions, industrial plants, public agencies or public utilities.
- (2) Prior to the filing of a conditional use permit application, the applicant shall first obtain on the application the endorsement of the Building Official,

that the use would be proper within the requirements of the Building Code of the City of Oceanside.

- (3) Approval of this use shall be given on a one-year basis and a six-month extension may be granted by the Planning Commission if it is necessary to complete arrangements for construction of a permanent structure to house the use.
- (4) All utility services shall be connected in conformity to the City Building Code requirements.
- (5) Sanitation facilities shall be connected to sewer or shall utilize a self-enclosed independent system unless toilet facilities are available to the applicant on the premises or the person by whom the work is performed.
- (6) No living quarters will be allowed in the trailers or vans.

Section 1506.C: HIGH RISE STRUCTURES.

- (1) The Planning Commission shall determine from the evidence presented at the hearing that all of the following facts exist:
 - (a) The proposed building or structure at the particular location and under the proposed conditions of development has complied with good planning practices, including provisions for height, building bulk, yards, open space, lot coverage, grading and related public health, safety and convenience features, and will provide for the preservation of the general welfare of the community as if developed to the height limits imposed by the provisions of the appropriate zone.
 - (b) The proposed building or structure will comply with the regulations and conditions specified in the Building Code for such structures.
 - (c) The granting of an exception will not adversely affect any adopted plan of any governmental agency.
- (2) The Planning Commission may modify or further restrict setback requirements, maximum height, off-street parking, and landscaping requirements upon a specified

finding being made that it is necessary to provide for a more aesthetically pleasing project or necessary for the preservation of health, safety, peace or general welfare of persons living in or near the project.

Section 1506.D: EXPANDABLE HOMES. Expandable homes may be permitted subject to meeting the following criteria:

- (1) This provision shall apply only to subdivisions of five or more lots.
- (2) All exterior walls shall be completed as part of the initial construction.
- (3) All necessary building and electrical permits will be required prior to the finishing of any unfinished room(s).
- (4) All unfinished rooms shall be sealed off until completed.
- (5) All plumbing shall be capped off.
- (6) All electrical circuits shall be cut off at the panel.
- (7) The Planning Commission may add additional requirements to insure adequate safety and compatibility to the existing neighborhood.

Section 1506.E: RESIDENTIAL USES IN COMMERCIAL ZONES. Residential dwelling units may be permitted in the PC, RC, C-2 and C-1 zones subject to the following criteria:

- (1) The residential use is a secondary use to an office or commercial use.
- (2) The residential unit shall be located above or on the same lot as the primary commercial use.
- (3) The total number of units shall not exceed the formula of one dwelling unit per 1,000 square feet of lot area.
- (4) For new construction off-street parking shall be provided at a ratio of one space for each dwelling unit. Twenty-five percent (25%) of the parking spaces required by the office or commercial use may be included within the parking spaces provided by the residential units.

- (5) For existing structures no additional parking need be provided when the Planning Commission finds that adequate off-site parking is provided elsewhere in close proximity to the property.

Section 1506.F: OFFICE AND COMMERCIAL USES IN INDUSTRIAL ZONES. Office and commercial uses not specifically listed within any of the industrial zones may be permitted in any industrial zone subject to the approval of a Conditional Use Permit and under the following criteria:

- (1) The amount of square footage to be used for office and commercial uses shall not exceed 25% of the gross floor area of any development as shown on a development plan or 25% of any freestanding building not part of a development plan.
- (2) Off-street parking shall be provided in accordance with provisions of Article 27.
- (3) The uses shall not interfere with the primary industrial uses located in the area.
- (4) An applicant may request that the Planning Commission waive the maximum square footage requirement if it can clearly be shown that the proposed use would comply with the spirit and intent of this section.
- (5) As part of the application package the names and addresses of all owners and tenants within 300 feet of the proposed use shall be submitted.
- (6) The above requirement will not be required if, as part of an approved master development plan, office and commercial uses have been clearly delineated as approved uses.

Section 1506.G: TRAVEL TRAILER PARKS. Travel Trailer Parks may be established, after issuance of a Conditional Use Permit, under the following criteria:

- (1) The General Plan designation must be High Density Residential.
- (2) Zoning must be R-3.
- (3) The number of spaces in any one park may not exceed twenty-five (25) trailers. When located within an

existing mobile home park, the number of travel trailers shall not exceed twenty-five (25) or twenty-five percent (25%) of the total number of mobile home spaces in the park whichever is less.

- (4) All units must meet applicable health and safety codes.
- (5) Restroom and shower facilities must be provided within a reasonable distance from the travel trailers.
- (6) Off-street parking at a ratio of one space per unit shall be provided.
- (7) Landscaping shall be provided on a ratio of thirty-five percent (35%) of the lot area.
- (8) A six-foot masonry wall surrounding a travel trailer park shall be provided.
- (9) A waiver to the development standards identified above shall be considered if the park is created as a result of the displacement by a governmental agency of low and moderate income units located within the City of Oceanside.

Section 1506.H: CHURCHES IN INDUSTRIAL ZONES. Churches may be established in M-1 and M-2 zones, after issuance of a Conditional Use Permit, under the following criteria:

- (1) The location proposed is not in an area considered "prime" for immediate industrial development.
- (2) Parking must be provided as required by the parking regulations for churches in Section 27, except that the parking may be shared with other industrial users in the vicinity if it can be shown that the uses will not be occurring simultaneously.
- (3) Buildings shall meet the requirements of the Uniform Building Code for church occupancies.
- (4) The church activities must not interfere with the primary industrial uses in the area.

Section 1506.I: TIME-SHARE RESORT PROJECTS. Time-share resort projects may be permitted under the zoning standards of the respective zone and other applicable City policies with the issuance of a Conditional Use Permit provided the following requirements are met:

- (1) A time-share resort project shall comply with the adopted plans, goals, objectives, policies and regulations of the City of Oceanside.
- (2) A time-share resort project shall file a Tentative Map and comply with Sections 1501 a-e, 1506 and any other relevant sections of the Comprehensive Zoning Ordinance and Subdivision Ordinance.
- (3) Time-share resort projects shall have primary automobile access on a collector or higher rated roadway as identified on the City Master Street Plan. For purposes of this section, The Strand shall be considered a collector roadway.
- (4) Parking for time-share resort projects. Parking spaces shall be provided at a ratio of one space per bedroom. Guest parking for time-share resort projects shall be provided at a ratio of one space for the first one to five time-share units; and thereafter, at a ratio of one space per five time-share resort units.
- (5) A time-share resort project application shall submit the following plans to address and mitigate the unique land use impacts of time-share resort projects.
 - (a) Sales Plan - A Sales Plan shall address the times, areas and methods that will be used to sell the time-share resort estates or uses. Factors to be defined in the plan shall include, but are not limited to: the location, length, and marketing methods that will be utilized to include definitions as to on-site and off-site marketing and signage; and a discussion as to the potential numbers of individuals and automobiles expected during various stages of the sales effort and mitigation measures.
 - (b) Management Plan - A Management Plan shall describe the methods employed by the applicant or his/her assignee to guarantee the future adequacy, stability, and continuity of a satisfactory level of management and maintenance of a time-share resort project. Means by which the City can service the project to protect the public health, safety, and general welfare shall be defined.

- (c) Contingency Plan - A Contingency Plan shall address the actions to be taken by the applicant or his/her assignee if the time-share resort project is an economic failure, or fails to sell 50% of the time-share resort estates or uses within two (2) years of receiving a permit to occupy the first unit.

- (d) Conversion Plan - If a time-share resort project application involves conversion of existing residential dwellings, a Conversion Plan shall be required consistent with City Policy. For purposed of Comprehensive Zoning Ordinance Article 31, Residential Condominium and Stock Cooperative Conversions, a time-share resort project shall be considered a conversion project, and a time-share resort unit shall be considered a condominium or dwelling unit. Under Article 31, conversions to time-share resort projects shall be exempt from Section 3112: tenant's right to purchase.

ARTICLE 15.2

SEPARATION OF REGULATED USES

Section 1500.20: STATEMENT OF PURPOSE. In the development and execution of this ordinance it is recognized that there are some uses which, because of certain factors such as nature of operation, type of clientele, and hours-of-operation, create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods. Special regulations separating such uses from each other and from nearby residential areas are therefore necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods.

Those uses listed in Section 1500.21 shall be processed in accordance with Article 21 with the exception that the City Council has the final authority to approve or disapprove the Conditional Use Permit.

Section 1500.21: REGULATED USES. The uses subject to the application of this article are as follows:

- (a) Adult Bookstores.
- (b) Adult Entertainment Businesses.
- (c) Adult Motels.
- (d) Adult Motion Picture Theaters.
- (e) Adult Mini Motion Picture Theaters.
- (f) Arcades.
- (g) Bar and Cocktail Lounges.
- (h) Bath Houses.
- (i) Body Studios and Schools.
- (j) Cabarets.
- (k) Dance Halls.
- (l) Escort Services.

- (m) Liquor Stores.
- (n) Massage Parlors or Establishments.
- (o) Peep Show Establishments.
- (p) Pool Rooms and Billiard Parlors.
- (q) Rap Parlors.
- (r) Secondhand Stores.
- (s) Shooting Galleries.
- (t) Tattoo Parlors.

Section 1500.22: DEFINITIONS. Words and phrases used in this article shall mean the following:

- (a) Adult Bookstore - An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", or an establishment with a segment or section devoted to the sale or display of such material.
- (b) Adult Entertainment Business - Any establishment which is customarily not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age.
- (c) Adult Motel - A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas".
- (d) Adult Mini Motion Picture Theater - An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas", for observation by patrons therein.
- (e) Adult Motion Picture Theater - An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or

"Specified Anatomical Areas", (as defined below) for observation by patrons therein.

- (f) Cabarets - As defined in Section 7A.1 of the Oceanside City Code.
- (g) Dance Hall - All hall open to the public where dancing by patrons is, or would be, encouraged or permitted more than twice a year.
- (h) Escort Services - Any premises where patrons can purchase the social company or companionship of another person.
- (i) Peep Show Establishment - As defined in Section 7.27 of the Oceanside City Code.
- (j) Regulated Use - shall mean any use listed in Section 1500.21.
- (k) Residential Zone - shall mean any area zoned pursuant to this ordinance as R-A (residential agricultural), R-1 (one family residential), R-2 (two family residential), R-3 (multiple family residential).
- (l) Specified Sexual Activities - Defined as:
 - (1) Human genitals in a state of sexual stimulation or arousal.
 - (2) Acts of human masturbation, sexual intercourse or sodomy.
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (m) Specified Anatomical Areas - Defined as:
 - (1) Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, and (c) female breast below a point immediately the top of the areola.
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (n) The definitions appearing in Article 2 of this ordinance shall apply to any terms used but not defined in this section.

Section 1500.23: LOCATIONAL REQUIREMENTS. It shall be unlawful for any regulated use to be located: (a) closer than 1,000 feet to any other regulated use; or (b) to be closer than 200 feet to any residential zone.

Distances between uses shall be measured between the nearest exterior walls or such uses or proposed uses along the shortest route intended and available for public traverse between said uses. The distance between a regulated use and a residential zone shall be measured between the nearest exterior wall of the use, and the nearest lot line included within the residential zone, along a straight line extended between the two points.

Section 1500.24: WAIVER. Application for waiver of the requirements of Section 1500.23 may be filed with the Secretary of the Planning Commission who shall then set the matter for public hearing before the Planning Commission providing at least ten (10) days written notice of such hearing to owners and occupants of all property lying within all applicable distances relating to the spacing requirement from which waiver is sought. The Planning Commission shall make a recommendation to the City Council concerning the waiver application. In considering the application, the recommendation of the Planning Commission and the decision of the City Council shall depend upon whether it is found that the proposed use:

- (a) Will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this ordinance will be observed.
- (b) Will not enlarge or encourage the development of a skid row or blighted area.
- (c) Will not be contrary to nor adversely affect any program of redevelopment, neighborhood conservation, or urban renewal.
- (d) In connection with a requested waiver of Section 1500.23(b) only, whether the proposed location of the use is favored by fifty-one percent (51%) of owners of record of property, city business licensees, and residing adults, located in the residentially-zoned areas within a 200 foot radius of the proposed location. Such a majority shall be evidenced by a petition validated by the City Clerk.

Section 1500.25: APPLICABILITY OF OTHER REGULATIONS. The provisions of this article are not intended to provide exclusive

regulation of the regulated uses. Such uses must comply with any and all applicable regulations imposed in other articles of this Comprehensive Zoning Ordinance, other city ordinances, and state and federal law.

Section 1500.26: SEVERANCE CLAUSE. If any section, sentence, clause, or phase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, or the ordinance as an entirety, it being the legislative intent that this ordinance shall strand notwithstanding the invalidity of such section, sentence, clause, or phrase.

ARTICLE 19

VARIANCES

Section 1900: PURPOSE. When practical difficulties, unnecessary hardships, or results inconsistent with the general purpose of this ordinance result through the strict and literal interpretation and enforcement of the provisions hereof, the Planning Commission shall have authority, as an administrative act, subject to the provisions of this Article, to grant upon such conditions as it may determine, such variance from the provisions of this ordinance as may be in harmony with its general purpose and intent, so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done

The sole purpose of any variance shall be to prevent discrimination, and no variance shall be granted which would have the effect of granting a special privilege not shared by other property in the same vicinity and zone.

Section 1901: REQUIRED SHOWINGS FOR VARIANCE. Prior to the granting of any variance it shall be shown:

- (a) That there are special circumstances applicable to the property because of size, shape, location, topography, easements, or surrounding that, with the strict application of the terms of the ordinance, deprives such property of rights enjoyed by other property in the vicinity and in the same zone classification.
- (b) That the granting of the variance will not constitute a special privilege to the property.
- (c) That the granting of the variance will not adversely affect any Specific Plan, Precise Plan, or General Plan adopted or being studied for the area.
- (d) That the granting of the variance will not be materially detrimental or injurious to the surrounding property nor to the general development pattern of the neighborhood.

Section 1902: FILING PROCEDURES, HEARINGS, NOTICES. File procedures, hearings, and notices set forth in Article 21, 2100 - 2123, shall apply to the processing approval or rejection of the variances.

ARTICLE 20

ZONING ORDINANCE AMENDMENTS AND ZONE RECLASSIFICATIONS

~~Section 2000: ORDINANCE MAY BE AMENDED. Boundaries of the zones established by this ordinance, the classification of property uses therein or other provisions of this ordinance may be amended whenever public necessity, convenience and general welfare require.~~

~~Section 2001: INITIATION OF AMENDMENT. Amendments to this ordinance may be initiated by:~~

- ~~(a) The verified application of one or more owners of property proposed to be changed or reclassified.~~
- ~~(b) Resolution of Intention by the City Council.~~
- ~~(c) Resolution of Intention of the Planning Commission.~~

~~Section 2002: APPLICATION FOR AMENDMENT. Whenever the property owner desires an amendment, supplement to, or change of the regulations prescribed for his property, he shall file with the Planning Commission an application therefor, verified by him, requesting such amendment.~~

~~Section 2003: COMMISSION TO HOLD HEARING ON AMENDMENTS. Upon the filing of a verified application for an amendment, or the adoption of a Resolution of Intention by the Planning Commission or the City Council, the Planning Commission shall hold one public hearing thereon, as required by Chapter 4, Title 7 of the Government Code, commonly known as the Planning and Zoning law of the State of California, and notice of such hearing shall be given as provided in Article 21 of this ordinance.~~

~~Section 2004: TIMES FOR HEARING. When the City Council has requested the Planning Commission to study and report upon a zoning ordinance or amendment and the Planning Commission fails to act upon such request within a reasonable time, the City Council may, by written notice, require the Planning Commission to render its report within 40 days. Upon receipt of the written notice, the Planning Commission, if it has not done so, shall conduct a public hearing as provided in Section 2003. Failure to report to the City Council within the above time period shall be deemed to be approval of the proposed zoning ordinance or amendment to the zoning ordinance.~~

~~Section 2005: NOTICE. Notice of time and place of public hearings shall be given pursuant to applicable provisions of Article 21.~~

~~Section 2006: COMMISSION TO ANNOUNCE FINDINGS. The Planning Commission shall announce its findings by formal resolution not more than fifteen (15) days following the hearing, and said resolution shall recite, among other things, the facts and reasons which, in the opinion of the Commission, make the approval or denial of the zoning ordinance or amendment necessary to carry out the general purpose of this ordinance and the relationship of the proposed ordinance or amendment to applicable general and specific plans.~~

~~Section 2007: NOTICE OF COMMISSION'S DECISION WHEN APPROVING. When the Commission's action is to recommend the adoption of a zoning ordinance or amendment, the Commission shall, within fifteen (15) days from the date of such action, notify the applicant by forwarding a copy of the resolution to the applicant at the address shown upon the application, and shall forward to the City Council a copy of the Resolution.~~

~~Section 2008: NOTICE OF DECISION OF COMMISSION WHEN DENYING THE APPLICATION. When the action of the Commission is to deny an application, the Commission shall, within fifteen (15) days from the date of the adoption of its resolution, notify the applicant by forwarding a copy of the resolution to the address shown on the application.~~

~~Section 2009: COMMISSION ACTION SHALL BE FINAL WHEN DENYING APPLICATION. The action of the Planning Commission denying an application for amendment shall be final and conclusive unless within twenty (20) days following the adoption of the resolution by the Planning Commission an appeal in writing is filed with the City Council by an interested party.~~

~~Section 2010: NOTIFICATION OF APPEAL. Upon receipt of a written appeal filed with the City Council by the applicant, as provided for by this Article, the Clerk of the City Council shall advise the Secretary of the Planning Commission.~~

~~Section 2011: CITY COUNCIL TO HOLD PUBLIC HEARINGS ON COMMISSION'S RECOMMENDATIONS OF AMENDMENTS AND ON APPEALS. Within thirty (30) days following receipt of the Resolution from the Planning Commission recommending the adoption of the amendment or the filing of a written appeal from an order of the Commission denying an application for amendment as provided in this Article, the City Council shall conduct a duly advertised~~

~~public hearing o the matter, public notice of which shall be given as provided in Article 21.~~

~~Section 2012: ADVERSE DECISION TO BE REFERRED TO THE PLANNING COMMISSION. The City Council may approve, modify, or disapprove the recommendation of the Planning Commission, provided that any modification of the proposed ordinance or amendment by the City Council not previously considered by the Planning Commission during its hearing, shall first be referred to the Planning Commission for report and recommendation, but the Planning Commission shall not be required to hold a public hearing thereon. Failure of the Planning Commission to report within forty (40) days after the reference, or such longer period as may be designated by the City Council shall be deemed to be approval of the proposed modification.~~

~~Section 2013: CITY COUNCIL TO ANNOUNCE FINDINGS AND DECISION BY RESOLUTION. The City Council shall announce its findings and decisions by formal resolution not more than twenty (20) days following the termination of proceedings of the hearing or upon receipt of a report from the Planning Commission when a matter has been referred back to the Planning Commission, and said resolution shall recite, among other things, the facts and reasons which, in the opinion of the City Council, make the approval or denial of the application for the amendment necessary to carry out the general purpose of this ordinance.~~

~~Section 2014: DECISION OF THE CITY COUNCIL SHALL BE FINAL. The action by the City Council on the application for amendment shall be by a majority vote of the City Council and shall be final and conclusive.~~

~~Section 2015: WITHDRAWAL OR APPEAL. The Planning Commission or the City Council in their discretion may permit the withdrawal of any amendment or appeal. The Planning Commission or the City Council may abandon any proceeding for an amendment or rezoning initiated by itself. Withdrawal of any petitions or appeal shall terminate all proceedings in reference thereto.~~

~~Section 2016: RENEWAL OF PETITION. If a rezoning is denied, another petition for the same rezoning on the same property or portions thereof, shall not be accepted by the City within a one year period unless specific approval for such filing is given by the Planning Commission or City Council.~~

Article 4 Use Classifications (Inland & Coastal Districts – Exclusive of Downtown)**Sections:****Articles Proposed
for Certification**

- 410 Purpose and Applicability**
- 411 Uses Not Classified**
- 412 Residential Use Classifications**
- 413 Public and Semipublic Use Classifications**
- 414 Commercial Use Classifications**
- 415 Industrial Use Classifications**
- 416 Agricultural and Extractive Use Classifications**
- 417 Accessory Use Classifications**
- 418 Temporary Use Classifications**

410 Purpose and Applicability

Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The City Planner shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Title. The City Planner may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. The City Planner's decision may be appealed to the Planning Commission.

411 Uses Not Classified

Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

412 Residential Use Classifications

- A. Day Care, Limited. Non-medical care and supervision of up to and including fourteen persons on a less than 24-hour basis within a licensee's home for children and adults.**
- B. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes roominghouse/boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).**
- C. Live/Work Quarters. An area comprising one or more rooms in a building**



originally designed for industrial or commercial occupancy that includes cooking space, sanitary facilities, and working space for artists, artisans and similarly activities and Custom Industry uses as defined herein.

- D. Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.
- E. Residential Care, Limited. Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- F. Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.
- G. RV Parks. A facility renting or leasing space on a short-term or long-term basis to owners or users of recreational vehicles, not for permanent residence.

413 Public and Semipublic Use Classifications

- A. Airport. Runways and related facilities for airplane landing and take-off.
- B. Cemetery. Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes. Cemetery purposes include columbariums, crematoriums, mausoleums, and mortuaries operated in conjunction with the cemetery.
- C. Child Care. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons under the age of 18.
- D. Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, youth, and senior centers.
 - 1. Small scale. Establishments occupying no more than 5,000 square feet.
- E. Convalescent Facilities. Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.
- F. Cultural Institutions. Nonprofit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.
 - 1. Small-scale. Establishments occupying no more than 5,000 square feet.

- G. Day Care, General. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons over the age of 18.
- H. Detention Facilities. Publicly owned and operated facilities providing housing, care, and supervision for persons confined by law.
- I. Emergency Health Care. Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.
- J. Emergency Shelter. Overnight sleeping accommodations intended to provide temporary housing to homeless families and/or individuals. Such accommodations may include basic supportive services such as food, shower and rest room facilities, laundry room, storage areas, and limited administrative or intake offices.
- K. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- L. Heliports. Pads and facilities enabling takeoffs and landings by helicopters.
- M. Hospitals. Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.
- N. Maintenance and Service Facilities. Facilities providing maintenance and repair services for vehicles and equipment, and materials storage areas. This classification includes corporation yards, equipment service centers, and similar facilities.
- O. Marinas. A boat basis with docks, mooring facilities, supplies and equipment for boats.
- P. Park and Recreation Facilities. Noncommercial parks, playgrounds, recreation facilities, and open spaces.
- Q. Public Safety Facilities. Facilities for public safety and emergency services, including police and fire protection.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- R. Religious Assembly. Facilities for religious worship and incidental religious education and other religious facility related supportive and social services. This use classification specifically excludes private schools as defined in this section.

1. Small-scale. Establishments occupying no more than 5,000 square feet.
- S. Residential Care, General. Twenty-four hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- T. Resource Centers. Neighborhood facilities that are City-sponsored or under the control of the City and are used for neighborhood safety, enhancement, education, health care, and other similar neighborhood programs.
- U. Schools, Public or Private. Educational institutions having a curriculum comparable to that required in the public schools of the State of California.
- V. Transitional Housing. Transitional housing encompasses both housing and appropriate supportive services for homeless persons designed to enable them to move to independent living within a 24-month period.
- W. Utilities, Major. Generating plants, electrical substations, aboveground electrical transmission lines, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or waste water treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.
- X. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act.

414 Commercial Use Classifications

- A. Adult Business. An Adult Business is any business, where employees, independent contractors, or patrons expose "specified anatomical areas" or engage in "specified sexual activities," or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities or "specified anatomical areas".

A use which has a majority of its conduct of activities, floor area, stock-in-trade, or revenue derived from, material characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas", shall be considered to be an Adult Business.

Adult Businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

Adult Businesses include, but are not limited to the following:

1. Adult Bookstore/Novelty Store/Video Store. An establishment which has: (1) a substantial or significant portion of its gross revenues or of its stock in trade, books, magazines, and other periodicals or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities".
2. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, and (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities".
3. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities"; or (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
4. Adult Motel. A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
5. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
6. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

7. Figure Studio. Any premises on which the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.

The term model shall include: Any person, male or female, who poses nude to be photographed, sketched, painted, drawn or observed.

The term nude shall include: Completely without clothing; or with any pubic area exposed; or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible; or with the breasts exposed by female so that the nipples thereof are exposed.

"Figure studio" does not include any studio or classroom which is operated by any public agency, or any private post secondary educational institution authorized by California state law to issue and confer a diploma or degree.

8. Peep-Show Establishment. Peep-Show Establishment as defined in the Oceanside City Code.

B. Ambulance Services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.

C. Animal Sales and Services.

1. Animal Boarding. Provision of shelter and care for animals on a commercial basis. This classification includes activities such as feeding, exercising, grooming, and incidental medical care.
2. Animal Grooming. Provision of bathing and trimming services for animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.
3. Animal Hospitals. Establishments where animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.
4. Animals: Retail Sales. Retail sales and boarding of animals provided such activities take place within an entirely enclosed building. This classification includes grooming if incidental to the retail use, and boarding of animals not offered for sale for a maximum period of 48 hours.

D. Artists Studios. Work and display space for artists and artisans, including

individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

E. Banks and Savings and Loans. Financial institutions that provide retail banking services to individuals and businesses. This classification is limited to institutions engaged in the on-site circulation of cash money including businesses offering check-cashing facilities.

1. Drive-through/Drive-up Service. Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.

2. Self-service Facilities (ATM's). Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.

F. Bars and Cocktail Lounges. Any premises designed, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food is not sold or served to the public as in a bona fide restaurant.

G. Bath Houses. Any establishment or business which has as its primary activity or service the provision of communal or private bathing in a sauna, jacuzzi or other therapeutic bath, save and except for bathing conducted as part of a hydrotherapy treatment practiced by or under the supervision of a medical practitioner who is formally associated therewith.

H. Building Materials and Services. Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and building contractors' yards, but excludes establishments devoted exclusively to retail sales of paint and hardware, and activities classified under Vehicle/Equipment Sales and Services, including vehicle towing services.

I. Catering Services. Preparation and delivery of food and beverages for off-site consumption with provision for on-site pickup or consumption not to exceed 1,000 square feet. (See also Eating and Drinking Establishments.)

J. Commercial Recreation and Entertainment. Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, arcades and games centers having five or more coin-operated game machines and card rooms.

1. Dance Establishment. Any premises wherein a public dance, as defined in the Oceanside City Code, is held.
 2. Pool Rooms, Billiard Rooms, and Shooting Galleries. Pool rooms, billiard rooms, and shooting galleries as defined in the Oceanside City Code.
 3. Arcades and Game Centers. Any place having five or more coin-operated, slug-operated, or any type of amusement or entertainment machines for which payment is necessary for operation. These include, but are not limited to pinball machines and video games, but do not include merchandise vending machines or mini-jukeboxes (See Section 3027, Arcades and Game Centers).
 4. Limited. Indoor movie theaters and performing arts theaters.
 5. Small-scale. Establishments occupying no more than 5,000 square feet.
- K. Communications Facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.
- L. Food and Beverage Kiosk. An establishment that provides walk-up and/or drive-thru food and beverage services only through a kiosk window for off-site consumption. The sale and consumption of alcoholic beverages is prohibited.
- M. Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.
1. Convenience Markets. Retail sales of food, beverage and small convenience items typically found in establishments with long or late hours of operation. This definition excludes delicatessens and other specialty food shops having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat or fish.
 2. Liquor Store. A place or business engaged in the primary business of off-sale alcoholic beverages. For the purposes of this ordinance, primary business shall mean 25 percent or more of the shelf area of a business.
- N. Funeral and Interment Services. Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries. Typical uses include crematories, columbariums, mausoleums or mortuaries.

- O. Home Improvement. Retailing or wholesaling of goods to be used for home improvements or the furnishing of homes. This classification is limited to specialty businesses in which the primary inventory of the business includes one of the following merchandise: furniture, carpet and other floor coverings, window coverings, wall coverings, bed and bath products, kitchen remodels, doors and windows, garage doors, glass, paint, mattresses, cabinets and shelves, fireplaces, patios, lighting materials, pool and spas, and similar uses. This use classification does not include a comprehensive home improvement store.
- P. Horticulture, Limited. The raising of fruits, vegetables, flowers, ornamental trees and shrubs on sites of 2.5 acres or less, as a wholesale commercial enterprise, provided that nursery equipment or materials necessary for the operation shall be stores on-site within structures. Wholesale commercial horticulture accessory to a dwelling unit shall be regulated as a home occupation. On-site Agricultural Sales Stands may be allowed subject to the location and development standards of Section 3038.
- Q. Laboratories. Establishments providing medical or dental laboratory services; or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. Other laboratories are classified as Limited Industry.
- R. Maintenance and Repair Services. Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles or boats and ships (see Vehicle/Equipment Repair and Marine Sales and Services).
- S. Marine Sales, Rentals, and Services. Establishments providing supplies and equipment for shipping or related services, or pleasure boating and recreation. Typical uses include chandleries, yacht brokerage, sales, boat yards, boat docks, and sail-making lofts.
- T. Nurseries. Wholesale or retail establishments for the selling of plants, shrubs, trees and related products in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer or chemicals of any type are stored and sold in package form only. Nurseries may include the growing and propagation of plants as part of the operation.
- U. Offices, Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, and medical/dental offices. This classification includes medical/dental laboratories incidental to an office use, but excludes banks and savings and loan associations.
- V. Payday Loan/Paycheck Advance Establishment. A person or entity that for compensation, engages in whole or in part, in the business of lending limited amounts of funds for a short-term, against the borrower's future paychecks. The

aforementioned definition excludes State or federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customer that is incidental to their main purpose or business.

W. Pawn Shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter 22 of the Municipal Code.

X. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

1. Health/Fitness Studios, Spas or Clubs. Establishments with equipment for exercise and physical conditioning.

2. Massage Establishments. Establishments providing massage service.

3. Small Scale. Establishments occupying no more than 5,000 square feet.

Y. Personal Services. Provision of services of a personal nature. This classification includes: tattooing establishments, body piercing establishment, escort services, barber and beauty shops, seamstresses, tailors, shoe repair shops, laundry and dry cleaning agencies (excluding large-sale plants - see Section 415.C.1), photo-copying, word processing, packaging, postal and office supply support facilities, and self-service laundries.

1. Tattooing Establishment. Any establishment or business engaged in "tattooing" as defined in the Oceanside City Code, excluding "micropigmentation" or "permanent cosmetic makeup" typically provided at beauty salon or day spas.

2. Body Piercing Establishment. Any establishment or business engaged in "body piercing". Body piercing means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, eyebrow, naval, male genitals, female breasts or female genitals. "Body piercing" does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

3. Escort Services. Any premises where patrons can purchase the social company or companionship of another person.

4. Limited. Excludes laundry and dry cleaning agencies and self-service laundries.

5. Small-scale. Establishments occupying no more than 2,500 square feet.

Z. Research and Development Services. Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms, pharmaceutical research laboratories, and medical testing and analysis, but excludes manufacturing, except of prototypes.

AA. Restaurants, Fast Food. A bona fide restaurant establishment where the principal business is the sale of prepared or rapidly prepared food and beverages to guests via counter, walk up, or window service for consumption on or off the premises. The sale beer and wine for on-site consumption is permitted. As used in this definition, a "bona fide" restaurant shall have suitable kitchen facilities for cooking and/or preparation of meals. The word "meals" means the assortment of food commonly ordered at various hours of the day.

1. Restaurants, Fast Food with Drive-thru or Drive-up. A restaurant establishment providing service from a building to patrons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up). The sale and consumption of alcoholic beverages at a restaurant with a Drive-thru or Drive-up window is prohibited.

BB. Restaurant Full Service. A bona fide restaurant establishment where the principal business is the sale of food and beverages to guests via table service for consumption on the premises. The sale of beer and wine for on-site consumption shall be considered incidental to the full service restaurant. Delivery service to vehicles parked in designated parking spaces (i.e. drive-up) is allowed as an ancillary service to the Restaurant Full Service. As used in this definition, a "bona fide" full service restaurant shall have suitable kitchen facilities for cooking of complete meals. The word "meals" means the assortment of foods commonly ordered at various hours of the day; the service of only such foods as sandwiches or salads does not meet the bona fide restaurant definition.

1. Restaurants Full Alcohol. A bona fide restaurant establishment authorized to sell distilled spirits for consumption on licensed premises. The sale of liquor is included as an appurtenant use to full service restaurants having table seating and service for more than 50 guests.
2. Restaurants Full Service with Live Entertainment – (Small Scale). Restaurant establishments providing live entertainment to patrons with 5 or fewer performers at restaurant facilities with no dance floor during typical lunch and dinner hours (11:00 a.m. – 11:00 p.m.) and having 75 percent food sales compared to alcohol sales.

CC. Retail Sales. The retail sale of merchandise not specifically listed under another

use classification. This classification includes department stores, clothing stores, comprehensive home improvement stores, furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies (including limited processing), electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

1. Limited. Excludes comprehensive home improvement stores, furniture, hardware, paint and wallpaper, carpeting and floor covering, and new automotive parts and accessories.
2. Pharmacies and Medical Supplies. Establishments primarily selling prescription drugs, and medical supplies and equipment.

DD. Secondhand Furniture, Appliance, "Collectible" and Clothing Sales. The retail sale of used furniture, appliances, "collectibles" and clothing, and secondhand dealers who are subject to Chapter 22 of the Municipal Code. This classification excludes antique shops primarily engaged in the sale of antique furniture and accessories.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

EE. Sex Supermarket/Sex Mini-Mall. The establishment or operation within the same building of more than one of any of the following Adult Businesses: adult bookstore or adult video store, adult cabaret, adult entertainment business, adult motion picture theater, adult theater, or peep-show establishment.

FF. Swap Meets, Recurring. Retail sale or exchange of handcrafted or secondhand merchandise for a maximum period of 48 hours, conducted by a sponsor on a more than twice yearly basis.

GG. Tobacco and Drug Paraphernalia Establishment. Any tobacco and drug paraphernalia establishment, as defined in the Oceanside City Code.

HH. Travel Services. Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

II. Vehicle/Equipment Sales and Services.

1. Automobile Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles.
2. Commercial Parking Facility. Lots offering short-term or long-term parking to the public for a fee.

3. Service Stations. Establishments engaged in the retail sale of gas, diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles.
4. Vehicle/Equipment Repair. Repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage and tire retreading or recapping.

(a) Limited. Excludes body and fender shops.

5. Vehicle/Equipment Sales and Rentals. Sale or rental of automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance.
6. Vehicle Storage. Storage of operative or inoperative vehicles. This classification includes storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles, but does not include vehicle dismantling.

(a) Limited. Storage of operable passenger automobiles, standard and small vans and motorcycles.

JJ. Visitor Accommodations.

1. Bed and Breakfast Inns. Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.

(a) Small-scale. Establishments renting four or fewer rooms.
2. Hotels, Motels, and Time-Share Facilities. Establishments offering commercial lodging on a less than monthly basis. This classification includes incidental eating, drinking, and banquet services intended for the convenience of guests.
3. Single-Room Occupancy (SRO) Residential Hotels. Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.
4. Vacation Club. Prepaid point or credit based establishments offering lodging on a less than weekly basis and having kitchens. This classification includes

eating, drinking and banquet services.

KK. Warehousing and Storage, Limited. Provision of storage space for household or commercial goods within an enclosed building. Access to individual storage units shall be via an interior access way. Exterior entry to individual storage units shall not be permitted. This classification includes facilities with a maximum of 5,000 square feet of gross floor area, but excludes Wholesale, Distribution and Storage, and Vehicle Storage. "Limited" vehicle storage as part of a Warehousing and Storage, Limited, facility is permitted subject to the approval of a Conditional Use Permit.

415 Industrial Use Classifications

A. Food Processing. Establishments primarily engaged in the manufacturing or processing and packaging of food or beverages for human consumption and wholesale distribution.

1. Limited. Establishments of less than 2500 square feet of floor area.

B. Industry, Custom. Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment. This use may include affiliated office and support facilities and limited showroom and a retail sales area when clearly secondary and associated with the primary business.

1. Limited. Includes mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops, and custom jewelry manufacture.

C. Industry, General. Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck or rail traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes chemical manufacture or processing, large scale laundry and dry cleaning plants, auto dismantling within an enclosed building, oil and gas refining, stonework and concrete products manufacture, small animal production and processing within an enclosed building and power generation.

1. Large Scale Laundry and Dry Cleaning Plants. A laundry or dry cleaning facility having any of the following or similar type equipment:

- (a) Boiler(s) exceeding a total of 15 horsepower;
- (b) Dry cleaning machine(s) exceeding 60 pounds total capacity;
- (c) Dryer(s) exceeding 50 pounds total capacity;
- (d) Wet cleaning washer(s) exceeding 50 pounds total capacity.

D. Industry, Limited. Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services; both within an enclosed building. This classification includes processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, and Vehicle/Equipment Services. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

1. Small-Scale. Limited to a maximum gross floor area of 5,000 square feet.

E. Industry, Research and Development. Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale. Uses include biotechnology, films, and non-toxic computer component manufacturers, specifically excluding uses which produce offensive odors, dust, and/or noise. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

F. Wholesaling, Distribution and Storage. Storage and distribution facilities. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

1. Trucking Terminals. Storage and distribution facilities having more than six heavy trucks on the premises at one time, but excluding trucking accessory to a Limited or General Industry classification.

2. Small-Scale. Wholesaling, distribution and storage having a maximum gross floor area of 5,000 square feet and having no more than two docks or service bays.

416 Agricultural and Extractive Use Classifications

A. Animal Husbandry. Raising of animals or production of animal products, such as eggs or dairy products, on an agricultural or wholesale commercial basis. Typical uses include grazing, ranching, animal breeding, dairy farming, and poultry farming.

B. Crop Production. Raising and harvesting of tree crops, row crops, greenhouse crops or field crops on sites of greater than 2.5 acres on an agricultural or wholesale commercial basis, including packing and processing.

C. Animal, Horse and Dog Training and Shows. Animal training, holistic natural animal health care, and dog shows with 50 dogs or less. Shows with greater than

50 dogs shall require a special events permit.

- D. Mining and Processing. Places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic minerals, oil or gas, together with essential on-site processing and production of only nonmetallic mineral products. Typical places are borrow pits, quarries, oil and gas drilling rigs, or concrete batch plants. This classification specifically excludes any activities that are directly or indirectly associated with off-shore oil and gas exploration, production, or processing.
- E. Wineries. An agricultural processing facility used for the fermenting and processing of fruit juice into wine; or the refermenting of still wine into sparkling wine. Tours, tastings and retail sales may be permitted as an accessory use only.
- F. Assembly, ceremonies, and weddings. An activity involving assembly or the intention of attracting people for ceremonial, educational, and celebratory purposes at one specific location. Such assembly includes, but is not limited to: receptions, weddings, recitals, exhibits, private parties, and social gatherings.

417 Accessory Use Classifications

- A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units ("second units") and home occupations.

418 Temporary Use Classifications

- A. Agricultural Specialty Sales, Seasonal. Retail sale of seasonal specialty items for a period not to exceed 45 days (e.g. Christmas Tree Sales, Pumpkin Sales).
- B. Yard/Garage Sales. A sales event advertised by any means at a residential location where members of the public may purchase identifiable or tangible items of personal property; provided however, it shall not mean any event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued by the City. Items sold shall be limited to personal property owned by the occupant of the property and/or surrounding neighbors.

Article 36 Separation of Regulated Uses (City-wide)Sections:

- 3601 Statement of Purpose
- 3602 Regulated Uses
- 3603 Definitions
- 3604 Locational Requirements
- 3605 Waiver of Locational Requirements
- 3606 Applicability of Other regulations
- 3607 Severance Clause

3601 Statement of Purpose

In the development and execution of this ordinance, it is recognized that there are certain land uses including adult oriented businesses and tattoo establishments which create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by minors. Special regulations separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are therefore necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods as well as interference with activities oriented toward families or minors.

3601.1 Findings – Adult Oriented Businesses

- A. The City of Oceanside has certain provisions found in its Zoning Ordinance relating to locational criteria including zoning and buffer requirements for adult-oriented businesses that are in need of refinement. The City Council finds that it is necessary and appropriate to amend various provisions of the Zoning Ordinance to add, refine and update the provisions relating to planning and zoning standards for adult-oriented businesses operating within Oceanside. The public health, safety and welfare of the City and its residents require the enactment of this Ordinance in order to: (1) mitigate and reduce the judicially recognized potential adverse secondary effects of adult-oriented businesses, including but not limited to crime, the prevention of blight in neighborhoods and the increased threat of the spread of sexually transmitted diseases; (2) protect the quality of life and neighborhoods in the City, the City's retail and commercial trade, and local property values, and minimize the potential for nuisances related to the operation of sexually oriented businesses; and (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize sexually oriented businesses.

B. The City Council finds that the revisions to the City's Zoning Ordinance implemented by this Ordinance are necessary in order to respond to recent developments within the regulation of adult uses and case law and in order to protect the City from the potential adverse secondary effects of adult-oriented businesses, including crime, the protection of the City's retail trade, maintenance of property values, protecting and preserving the quality of the City's neighborhoods and the City's commercial districts, and the protection of the City's quality of life, based on the referenced studies and the findings set forth herein. Specifically, the revisions and amendments to the City's Zoning Ordinance included in this Ordinance are essential and necessary to ensure the orderly land use regulation as to adult-oriented business uses within the City and thereby protect the public peace, safety and general welfare in the City of Oceanside.

C. The City Council, in adopting this Ordinance, takes legislative notice of the existence and content of the following studies concerning the adverse secondary side effects of adult-oriented businesses in other cities: Austin, Texas (1986); Indianapolis, Indiana (1984); Garden Grove, California (1991); Seattle, Washington (1989); Houston, Texas (1997); Phoenix, Arizona (1979); Tucson, Arizona (1990); Chattanooga, Tennessee (2003); Los Angeles, California (1977); Whittier, California (1978); Spokane, Washington (2001); St. Cloud, Minnesota (1994); Littleton, Colorado (2004); Oklahoma City, Oklahoma (1986); Dallas, Texas (1997 and 2007); Ft. Worth, Texas (2004); Kennedale, Texas (2005); Greensboro, North Carolina (2003); Amarillo, Texas (1977); Cleveland, Ohio (1977); Newport News, Virginia (1996); Jackson County, Missouri (2008); Louisville, Kentucky (2004); New York, New York (1994); New York Times Square (1994); Beaumont, Texas (1982); the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); A Methodological Critique of the Linz-Paul Report: A Report to the San Diego City Attorney's Office (2003); Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses, by Louis Comus III (2001). The City Council finds that these studies are relevant to the problems addressed by the City in enacting this Ordinance to regulate the adverse secondary side effects of adult-oriented businesses, and more specifically finds that these studies provide convincing evidence that:

1. Adult-oriented businesses, as a category of uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, liner, traffic, noise, and sexual assault and exploitation.
2. The studies from other cities establish by convincing evidence that adult-oriented businesses often have a deleterious effect on nearby businesses and residential areas, causing, among other adverse secondary effects, an increase

in crime and a decrease in property values. Buffering and locational regulations for adult-oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

D. In developing this Ordinance, the City Council is mindful of legal principles relating to regulation of adult-oriented businesses, and the City Council does not intend to suppress or infringe upon any expressive activities protected by the First Amendment of the United States and California Constitutions but instead desires to enact reasonable time, place, and manner regulations that address the adverse secondary effects of adult-oriented businesses. The City Council takes legislative notice of the:

1. Decisions of the United States Supreme Court regarding local regulation of adult-oriented businesses including, but not limited to: City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v. Pap's A.M. ("Kandyland"), 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); Sewell v. Georgia, 435 U.S. 982 (1978); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Dallas v. Stanglin, 490 U.S. 19 (1989).
2. Decisions of the Ninth Circuit Court of Appeals addressing adult-oriented businesses including but not limited to: Alameda Books, Inc. v. City of Los Angeles, 631 F.3d 1031 (9th Cir. 2011); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Tollis, Inc. v. County of San Diego, 505 F.3d 935 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875; World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Dream Palace v. County of Maricopa, 384 F.3d 990 (9th Cir. 2004); Talk of The Town v. Department of Finance and Business Services, 343 F.3d 1063 (9th Cir. 2003); Deja Vu-Everett-Federal Way, Inc. v. City of Federal Way, 46 Fed.Appx. 409 (9th Cir. 2002); Clark v. City of Lakewood, 259 F.3d 996 (9th Cir. 2001); Isbell v. City of San Diego, 258 F.3d 1108 (9th Cir. 2001); Isbell v. City of San Diego, 450 F.Supp.2d 1143 (S.D. Cal. 2006); Diamond v. City of Taft, 215 F.3d 1052 (9th Cir. 2000); L.J. Concepts, Inc. v. City of Phoenix, 215 F.3d 1333 (9th Cir. 2000); Lim v. City of Long Beach, 217 F.3d 1050 (9th Cir. 2000); Young v. City of Simi Valley, 216 F.3d 807 (9th Cir. 2000); 4805 Convoy, Inc. v. City of San Diego, 183 F.3d 1108 (9th Cir. 1999); North v. City of Gilroy, 78 F.3d 594 (9th Cir. 1996); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); Topanga Press, Inc. v. City of Los Angeles, 989 F.2d 1524 (9th Cir. 1993); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); and Lydo Entertainment v. Las Vegas, 745 F.2d 1211 (9th Cir. 1984).

3. Decisions of the State of California addressing adult-oriented businesses including: *Madain v. City of Stanton*, 185 Cal.App.4th 1277 (2010); *Krontz v. City of San Diego*, 136 Cal.App.4th 1126 (2006); *Lacy Street Hospitality Service, Inc. v. City of Los Angeles*, 125 Cal.App.4th 526 (2004); *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board and Renee Vicary*, 99 Cal.App.4th 880 (2002); *Tily B., Inc. v. City of Newport Beach*, 69 Cal.App.4th 1 (1998); *Sundance Saloon, Inc. v. City of San Diego*, 213 Cal.App.3d 807 (1989); *7978 Corporation v. Pitchess*, 41 Cal.App.3d 42 (1974); *Deluxe Theater & Bookstore, Inc. v. City of San Diego*, 175 Cal.App.3d 980 (1985); *E.W.A.P., Inc. v. City of Los Angeles*, 56 Cal.App.4th 310 (1997); *City of Vallejo v. Adult Books*, 167 Cal.App.3d 1169 (1985); *City of National City v. Wiener*, 3 Cal.4th 832 (1992); and *People v. Superior Court (Lucero)*, 49 Cal.3d 14 (1989).

E. The negative secondary effects from adult-oriented businesses constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this Ordinance, exists independent of any comparative analysis between adult-oriented and non-adult-oriented businesses. Additionally, the City's interest in regulating adult-oriented businesses extends to preventing future secondary effects of either current or future adult-oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects. The City refers to and incorporates by reference, the record of cases and documentation relating to secondary effects associated with adult-oriented businesses which will remain on file with the City Clerk.

F. Locational criteria are a legitimate and reasonable means of ensuring that adult businesses are conducted in a manner so as to minimize their adverse secondary effects and thereby protect the health, safety, and welfare of the City's residents, protect citizens from increased crime, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and businesses, and deter the spread of urban blight. The locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult businesses in Oceanside and a sufficient and reasonable number of alternative locations for adult-oriented businesses are provided by this Ordinance. The City Council takes legislative notice of the United States Supreme Court decision in *Renton* that requires that adult businesses be provided a reasonable opportunity to open and operate. The City Council also takes legislative notice of the Ninth Circuit's decisions in *Topanga Press*, *Lim* and *Isbell* with respect to availability of sites for adult businesses and finds that under the distance and locational restrictions imposed by this Ordinance there are sufficient sites available for adult-oriented businesses within Oceanside.

G. Relying on the following, the City finds that adult-oriented businesses in its community may lead to detrimental secondary effects including prostitution and

engagement in unlawful sexual activity. The City bases this conclusion on the experiences of Oceanside, as well as that of other California communities, such as La Habra and Arcadia, which the City has a reasonable basis to believe reflect the experiences of its own community, including numerous police reports and affidavits from those communities, and judicial decisions in the public record:

1. Evidence indicates that some dancers, models, entertainers, performers, and other persons who publicly perform specified sexual activities or publicly display specified anatomical areas in adult-oriented businesses (collectively referred to as "performers") have been found to engage in sexual activities with patrons of adult-oriented businesses on the site of the adult-oriented business.
2. Evidence has demonstrated that performers employed by adult-oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows.
3. Evidence indicates that performers at adult-oriented businesses have been found to engage in acts of prostitution with patrons of the establishment.
4. Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as locations for engaging in unlawful sexual activity.
5. As a result of the above, and the increase in incidents of HIV, AIDS, and hepatitis B, which are sexually transmitted or blood borne diseases, the City has a substantial interest in adopting regulations that will reduce the possibility for the occurrence of prostitution and unlawful sex acts at adult-oriented businesses in order to protect the health, safety, and well-being of its citizens. The City finds this is relevant to Oceanside and the need to regulate the secondary effects of adult-oriented businesses within the community.

H. The City Council recognizes and relies on the findings set forth in the 1986 Attorney General's Report on Pornography. A copy of the Attorney General's Report on Pornography is available for public review at the City Clerk's office.

I. The City Council recognizes the possible harmful effects on children and minors exposed to the effects of adult-oriented businesses and recognizes the need to enact regulations which will minimize and/or eliminate such exposure. The City Council takes legislative notice of the Penal Code provisions authorizing local governments to regulate matter that is harmful to minors (i.e., Penal Code § 313 et seq.). The City Council further takes legislative notice of the cases that recognize that protection of minors from sexually explicit materials is a compelling government

interest, including Crawford v. Lungren, 96 F.3d 380 (9th Cir. 1996) and Berry v. City of Santa Barbara, 40 Cal.App.4th 1075 (1995).

- J. While the City Council is obligated to protect the rights conferred by the United States Constitution to adult-oriented businesses, it does so in a manner that ensures the continued and orderly use and development of property within the City and diminishes, to the greatest extent feasible, those undesirable adverse secondary effects which the above mentioned studies have shown to be associated with the operation of adult-oriented businesses.
- K. Zoning and locational restrictions are a legitimate and reasonable means of helping to reduce the secondary effects from adult-oriented businesses and thereby protect the health, safety, and welfare of Oceanside residents, protect citizens from increased crime, preserve the quality of life, and preserve the character of surrounding neighborhoods and businesses, and deter the spread of urban blight. The zoning and locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult-oriented businesses in Oceanside.
- L. The City Council in recognizing that these standards do not preclude reasonable alternative avenues of communication and notes that the proliferation of adult-oriented material on the Internet, satellite television, direct television, CDs, DVDs, all provide alternative avenues of communication. Additionally, the City Council takes note that numerous web-based services, such as www.sugardvd.com and www.wantedlist.com, deliver adult videos and DVDs directly to customers' homes via the mail. The City Council recognizes the following review of one of these web-based services: "SugarDVD has made it so easy to rent and view adult movies, you may never leave your house again ... SugarDVD is discreet with quick turnaround times and a massive selection ... SugarDVD offers six rental plans, catering to the casual porn viewer and diehards who can never get enough hard-core fare." (Hustler Magazine, January 2006.) The City Council also considers and relies on published decisions examining the proliferation of communications on the Internet. *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997) [the principle channel through which many Americans now transmit and receive sexually explicit communication is the Internet]; *Anheuser-Busch v. Schmoke*, 101 F.3d 325 (4th Cir. 1996) [the Fourth Circuit rejected a First Amendment challenge to a Baltimore ordinance restricting alcohol advertisements on billboards acknowledging that the Internet is one available channel of communication]; *U.S. v. Hockings*, 129 F.3d 1069 (9th Cir. 1997); see also *U.S. v. Thomas*, 74 F.3d 701 (6th Cir. 1996) [recognizing the Internet as a medium for transmission of sexually explicit material in the context of obscenity prosecutions]. The Internet brings with it a virtually unlimited additional source of adult-oriented sexual materials available to interested persons in every community with a mere keystroke. An adult-oriented business no longer has to be "actually" physically located in a city to

be available in the community.

- M. The City Council recognizes that adult devices (i.e. adult novelties and/or adult related products) such as dildos, fur-lined handcuffs, leather whips, anal beads, and devices that are physical representations of human genital organs, are not speech and enjoy no First Amendment protections. (See Ford v. State of Texas, 753 S.W.2d 451, 452-453 (1988); Sewell v. State of Georgia, 233 S.E.2d 187, 188-189 (1977); Chamblee Visuals, LLC v. City of Chamblee, 506 S.E.2d 113, 115 (1998); and Red Bluff Drive-In, Inc. v. Vance, 648 F.2d 1020 (5th Cir. 1981).)
- N. It is not the intent of the City Council in enacting this Ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City and its Council recognize that state law prohibits the distribution of obscene materials and expect and encourage law enforcement officials to enforce state obscenity statutes against such illegal activities in Oceanside.
- O. The City Council does not intend to regulate in any area preempted by California law including, but not limited to, regulation of obscene speech, nor is it the intent of the City Council to preempt regulations of the state Alcoholic Beverage Control Department ("ABC").
- P. Nothing in this Ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any other City ordinance in any respect, or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.
- Q. On September 12, 2016, the Planning Commission Council held a duly noticed public hearing during which it allowed for public input and testimony concerning this proposed Ordinance. At the conclusion of the public hearing the Planning Commission recommended this Ordinance to the City Council for approval.
- R. On September 21, 2016, the City Council held a duly noticed public hearing during which it received input and testimony and considered the adoption of this Ordinance.

3601.2 Findings – Tattoo Establishments

- A. The City Council has a reasonable basis to believe that there are land use compatibility issues relating the siting of tattoo facilities and their customers when located adjacent to residential uses. Through its zoning code provisions, the City of Oceanside seeks to maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions that make the City of Oceanside a pleasant place to live and work.
- B. The City Council has a reasonable basis to believe that it is important from a land use compatibility perspective to buffer tattoo facilities from sensitive land uses such as residential zones, schools, parks, and day care facilities while allowing a wide range of potential alternative sites and, as well, to have a buffer between regulated uses to prevent their concentration within one part of the City. These buffer provisions will serve to: (1) protect the quality of life and neighborhoods in the City; (2) protect the City's retail and commercial trade; (3) minimize the potential for nuisances related to the operation of tattoo establishments; (4) protect the well-being, tranquility and privacy of the home with the residential buffer; and (5) protect the peace, welfare, and privacy of persons who own, operate and/or patronize tattoo establishments.
- C. The City Council also desires to avoid the clustering of tattoo establishments so that the City does not experience a significant change in the character of the community. Tattoo establishments have the potential to have a detrimental impact individually or when located in close proximity to each other, can create a "skid row" atmosphere, and have a deleterious effect upon adjacent areas. For example, Oceanside's downtown area has been the subject of substantial redevelopment and the addition of new businesses that are attractive to families and tourists. It is important that the character of the downtown area remain family and tourist-oriented. The buffer restrictions applicable to tattoo establishments serves to preserve this interest. Furthermore, the area of south Oceanside has seen a revitalization in the past several years and it is important that this residential zoned areas be preserved, and that adjacent neighborhood serving commercial and visitor serving establishments be preserved and maintained. The City recognizes that the tattoo establishments serve as a specialty destination service and accordingly, is not compatible to place such facilities within 500 feet of a residential zone because it would contribute to neighborhood blight and is not consistent with and would not serve to protect the commercial zones that are designed to offer the neighborhood needed commercial services.
- D. The City's certified Local Coastal Program ("LCP") provides that, "[i]n granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreation facilities over private residential, general industrial or general commercial uses". According to the City's Land Use

Plan (LUP), a component of the LCP, the visitor serving commercial land use category "encompasses specialized commercial uses which are directly dependent supportive or related to the coast. Such uses provide services or goods for coastal industries or recreationalists, and include boat sales, supplies, and services; diving, commercial fishing, and sport-fishing establishments; restaurants, snack bars, and convenience markets; gift, sundries, and novelty shops; tourist-cottages, campgrounds, and recreational vehicle parks; and recreational equipment rentals (such as bicycles, roller skates, surfboards)." A tattoo establishment is not a visitor serving use. This Ordinance advances the City's interest in implementing its LCP.

- E. The City has a reasonable basis to believe, based on its own experience, along with those of other communities including Vista, Signal Hill, Santa Clara, Torrance, Hermosa Beach, and Ventura as to the secondary effects of tattoo establishments in its community may lead to detrimental effects including noise, light, traffic, and parking compatibility issues with neighboring residential zones. The City is aware of other communities experience and based on its own experience is concerned for the potential for criminal activity from tattoo parlors and their potential to attract the criminal element, especially gangs.
- F. Specifically, the City takes note of the Oceanside's Police Crime Analysis report dated July 27, 2016 that documents increased criminal activity from tattoo facilities in Oceanside. Such criminal activity is not compatible with adjacent residential uses. The City takes note that within Oceanside, since January 2013, Oceanside PD has received 34 Calls for Police Service (CFS) at Oceanside's 3 tattoo parlors; About Face, Frontline and Body Temple. The About Face Tattoo shop is located downtown at 423 S. Coast Hwy and has generated the most CFS, with 17 calls between 2013 and July 2016. In addition, since January 2005, Oceanside PD has received 73 CFS at About Face Tattoo shop which accounts for 92% more CFS than the neighboring barbershop; and 564% more CFS than the neighboring day spa. CFS at all 3 tattoo shops include calls related to fights, public disturbances, property crimes, calls for violent activity; none of which are compatible with adjacent schools, daycares or residential zones. In one case, a known drug user was displaying a weapon which required police officers to deploy a taser in order to arrest the suspect.
- G. The City Council also takes note of the August 2014 investigation of a felony battery at Power Tattoo located in the neighboring city of Vista where an individual was assaulted by 20-30 people at a tattoo facility event. In addition, the City of Santa Clara Police Department conducted a study on secondary effects of crime from regulated businesses, which include tattoo shops, and concluded that these shops can be a magnet for organized crime, gang activity, loitering, and increased police calls. And, the City also takes note that in May 2011, the Los Angeles Police Department and federal agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives, arrested nineteen alleged members of the gang

Venice 13 at a tattoo parlor called 'Villainz Ink' that attracted a number of suspected criminal street gang members and associates who, in the course of a four-month investigation, sold illegal narcotics, committed numerous firearms violations, and sold a firearm to an ATF undercover agent.

- H. The City Council has a reasonable basis to be concerned over the criminal activity associated at tattoo facilities affiliated with the outlaw gang known as the Hells Angels based on the City's own experience and those of neighboring jurisdictions. The Hells Angels are involved in the production, transportation, and distribution of marijuana and methamphetamine. Additionally, the Hells Angels are involved in the transportation and distribution of cocaine, hashish, heroin, LSD (lysergic-acid diethylamide), ecstasy, PCP (phencyclidine), and diverted pharmaceuticals. The Hells Angels are involved in other criminal activity including assault, extortion, homicide, money laundering, and motorcycle theft." <https://www.justice.gov/criminal-ocgs/gallery/outlaw-motorcycle-gangs-omgs>. Moreover, according to a 2015 report by the National Gang Intelligence Center ("FBI Report"), the most common criminal activities committed by outlaw motorcycle gangs over the past two years have included weapons possession, threats and intimidation, assault, and drug trafficking. The FBI Report documents a March 2014 incident in which two Hells Angels members sought medical treatment for stab wounds sustained during an altercation with rival gang members on a freeway near Temecula, California. The injured Hells Angels members were not willing to cooperate with law enforcement or say who was responsible for their injuries. According to the report, outlaw motorcycle gang members are increasingly involved in self-owned businesses (in particular tattoo parlors) and that some of these businesses are used to facilitate criminal activity. <https://www.fbi.gov/image-repository/pub3.jpg/view>.
- I. Zoning and locational regulations for tattoo establishments are necessary to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created. Buffer requirements are a legitimate and reasonable means of ensuring against the negative secondary effects of tattoo facilities and to balance the various land uses in order to minimize and control problems associated with such businesses and thereby protect the health, safety and welfare of Oceanside residents, preserve the quality of life, and preserve the character of surrounding neighborhoods. The buffer requirements of the City do not unreasonably restrict the establishment or operation of constitutionally protected adult businesses in Oceanside. The City Council recognizes that these buffer requirements do not preclude reasonable alternative avenues of communication and that there are several hundred potentially available sites for tattoo establishments. And, Oceanside is already home to three (3) existing tattoo establishments, a fourth is undergoing tenant improvements, and there is a wide menu of potential sites for other prospective users to select from in this seaside community.
- J. The City is concerned as to the health and well-being of adolescents within the

community and is aware of prior studies conducted which have shown an association between adolescents who obtain tattoos and their involvement in high-risk behaviors that are detrimental to their health and welfare. The City Council has a reasonable basis to conclude that businesses offering tattoo services may result in negative impacts on sensitive uses, such as residential and educational institutions serving persons under 21 years of age. The City Council reasonably believes that in its community, a buffer from schools decreases the accessibility of such shops to high school aged persons. Similarly, in the south Oceanside area, minors are located in these adjacent residential zones and this buffer will serve to decrease the accessibility to minors as well. The prior study titled "Tattooing and High-Risk Behavior in Adolescents," shows that this type of use (tattoo establishments) demonstrates a link between the tattooing of high school aged persons and a propensity to engage in other high-risk behaviors including gang affiliation, substance abuse, and violence. The Council takes legislative note of Sable Commission of California, Inc. v. FCC (1989) 492 U.S. 115 wherein the Court found that there is a compelling interest in protecting the physical and psychological well-being of minors.

- K. The City of Oceanside has a reasonable basis to believe that there are serious health issues at play in the provision of tattoos. The City is aware that the practice of providing tattoos, through the use of implements which pierce the skin, create an increased risk of the transfer of blood borne diseases. Tattoo inks, dyes, and pigments have not been approved by the FDA and the health consequences of using these products are unknown. This applies to all tattoo pigments, including those used for ultraviolet (UV) and glow-in-the dark tattoos. Many pigments used in tattoo inks are industrial-grade colors suitable for printers' ink or automobile paint. And, the use of henna in temporary tattoos has not been approved by FDA. Henna is currently approved only for use as a hair dye.
- L. Tattooing carries the risk of infection and transmission of disease if unsanitary conditions are present or unsterile equipment is used. The Centers for Disease Control and Prevention ("CDC") and the United States Food and Drug Administration ("FDA") confirm the significant health risks of tattooing. CDC, Body Art: Tattoos and Piercings (Jan. 21, 2008) (noting risks of infection, tuberculosis, Hepatitis B and C, and HIV). FDA, Tattoos and Permanent Makeup (Nov. 29, 2000) (discussing the risks of infection, removal problems, potential allergic reactions, and MRI complications). Research has also shown that some pigment migrates from the tattoo site to the body's lymph nodes. Lymph nodes are part of the lymphatic system, a collection of fluid-carrying vessels in the body that filter out disease-causing organisms. Whether the migration of tattoo ink has health consequences or not is still unknown. The National Center for Toxicological Research (NCTR) is doing further research to answer this and other questions about the safety of tattoo inks.

M. The City Council is mindful of legal principles relating to regulation of tattoo establishments, and the City Council does not intend to suppress or infringe upon any expressive activities protected by the First Amendment of the United States and California Constitutions but instead desires to enact reasonable time, place, and manner regulations that address the adverse effects of tattoo establishments. The City Council has considered the following decisions: Anderson v. Hermosa Beach (9th Cir. 2010) 621 F.3d 1051; Buehrle v. Key West (11th Cir. 2015) 813 F.3d 973; Ward v. Rock Against Racism (1989) 491 U.S. 78; and City of Renton v. Playtime Theaters (1986) 475 U.S. 41. As well, the City Council is mindful of the district court decision rendered this past June 2016 by USDC Stephen Wilson in the federal lower court matter of Tiffany Garcia v. City of Torrance.

3602 Regulated Uses

The uses subject to compliance with this Article are as follows:

- A. Adult Bookstores/ Novelty Stores/ Video Stores
- B. Adult Cabaret
- C. Adult Entertainment Business
- D. Adult Motel
- E. Adult Motion Picture Theaters
- F. Adult Theaters
- G. Arcades and game Centers
- H. Bars and Cocktail Lounges
- I. Bath Houses
- J. Body Piercing Establishments
- K. Dance Establishments
- L. Escort Services
- M. Figure Studios
- N. Liquor Stores
- O. Massage Establishments
- P. Payday Loans/ Paycheck Advance Establishments
- Q. Peep-Show Establishments
- R. Pool Rooms, Billiard Rooms, and Shooting Galleries
- S. Tattooing Establishments
- T. Tobacco and Drug Paraphernalia Establishments

Regulated Uses that have First Amendment protections shall require an Administrative Regulated Use Permit (ARUP) as called out in Section 3606. The balance of the Regulated Uses listed in this Section, shall require a use permit issued in accord with Article 41, however, the City Council shall have final authority to approve or disapprove the use permit.

3603 Definitions

The definitions appearing in Article 3 and the land use classifications appearing in

Article 4 and 4a of this ordinance shall apply to any terms used in Article 36.

3604 Locational Requirements

- A. It shall be unlawful for any Regulated Use to be located closer than one thousand (1,000) feet to any other Regulated Use. This distance shall be measured in a straight line, without regard to intervening structures from the closest point on the exterior structure walls of each business.
- B. It shall be unlawful for any Regulated Use listed as Items A, B, C, D, E, F, M or Q of Section 3602 to be located closer than one thousand (1,000) feet from any residential district or any parcel of land which contains any one or more of the following specific land uses:
1. Public or Private School;
 2. Park, playground or public beach;
 3. Church or other similar religious facility, and
 4. Child care or pre-school facility.

(Items 1-4 shall collectively be referred to as "the Sensitive Land Uses")

It shall be unlawful for any Regulated Use not enumerated in this Section B to be located any closer than five hundred (500) feet from any residential district or any Sensitive Land Uses.

- C. The Regulated Use enumerated as S (Tattooing Establishment) in Section 3602 above, shall not be located closer than five hundred (500) feet to any other tattooing establishment, or be located within five hundred (500) feet of any residential district or to any of the Sensitive Land Uses enumerated in Section 3604.B. 1, 2, or 4. No other locational requirements shall apply to tattooing establishments.
- D. The distance between any Regulated Use and any residential district shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior structure wall of the use to the closest district line of any residential district. The distance between any Regulated Use and any Sensitive Land Uses enumerated in Subdivisions (1) or (2) of Section 3604.B shall be measured in a straight line, without regard to intervening structures, from the closest point of the exterior structure wall of the regulated use to the closest point of the parcel line of such enumerated land use. The distance between any Regulated Use and any Sensitive Land Uses enumerated in Subdivisions (3) or (4) of Section 3604.B shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior structure wall of the Regulated Use to the closest point on the exterior structure wall of such enumerated land use.

3605 Waiver of Locational Requirements

Any person proposing a permitted Regulated Use as listed in Section 3602 may apply for a waiver of the locational requirements provided in Section 3604, except that no waiver shall be available where the proposed Regulated Use is subject to Section 3606 or is otherwise afforded First Amendment Protections. Such waiver application shall be filed and processed concurrently with the conditional use permit entitlement request, if applicable, for the proposed use. The City Planner shall set the use permit application, and/or the waiver application, for public hearing before the Planning Commission or Community Development Commission as the case may be, provided that at least ten (10) days written notice of such hearing is given to owners and occupants of all property lying within all applicable distances set forth in the locational requirements.

The Planning Commission shall make recommendations to the City Council for the approval or disapproval of such waiver. No waiver shall be approved unless all of the following findings are made regarding the proposed use:

1. It will not be contrary to the public interest.
2. It will not be contrary to the spirit or intent of this Article.
3. It will not impair nearby property or the integrity of the underlying district.
4. It will not encourage the development of an adult entertainment area or otherwise promote community blight.
5. It will not negatively impact any governmental programs of redevelopment, revitalization, or neighborhood preservation.

3606 First Amendment Application – Administrative Regulated Use Permit

A. Approval of a Regulated Use protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution shall require approval of an Administrative Regulated Use Permit (ARUP) by the City Planner and shall not require approval of a Conditional Use Permit (CUP). The ARUP shall be approved by the City Planner provided:

- (1) The proposed use is allowed by Articles 11, 12 and/or 13 of the Zoning Ordinance;
- (2) The proposed use meets the locational requirements in Section 3604; and
- (3) The proposed use meets the operational requirements, if any, set forth for such proposed use in the Oceanside City Code or any other provision of law. No waiver of the locational requirements shall be permitted.

B. The City Planner shall determine within ten (10) business days whether the ARUP application is complete. The City Planner's decision to approve or deny the ARUP application shall be made within sixty (60) days after the application is complete. The City Planner's decision shall be deemed final for purposes of this section upon the date it is mailed by first-class mail, postage prepaid, including a copy of the

affidavit or certificate of mailing, to the applicant and all adjacent property owners within five hundred (500) feet of the proposed Regulated Use, as measured in accordance with Section 3604.D. The final City Planner's decision shall not be subject to any administrative appeal. Judicial review of the City Planner's decision shall be in accordance with the procedures set forth in the California Code of Civil Procedure section 1094.8.

3607 Applicability of Other Regulations

The provisions of this article are not intended to provide exclusive regulation of the regulated uses. Such uses must comply with any and all applicable regulations imposed in other articles of this zoning ordinance, other city ordinances, and state and federal law.

3608 Severance Clause

If any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, or the ordinance in its entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of such section, sentence, clause or phrase.

Article 41 Use Permits and Variances (City-wide)Sections:

- 4101 Purposes
- 4102 Authority of the City Planner, Planning Commission, Harbor Board of Directors, Community Development Commission and City Council
- 4103 Application for Use Permit or Variance
- 4104 Notice, Administrative Decision, and Public Hearing
- 4105 Required Findings
- 4106 Conditions of Approval
- 4107 Effective Date
- 4108 Lapse of Approval; Time Extension; Transferability; Discontinuance; Revocation
- 4109 Changed Plans
- 4110 Appeals

4101 Purposes

This article provides the flexibility in application of land use and development regulations necessary to achieve the purposes of this ordinance by establishing procedures for approval, conditional approval, or disapproval of use-permit and variance applications. Use permits are required for use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area.

Variances are intended to resolve practical difficulties or unnecessary physical hardships that may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site. Cost to the applicant of strict compliance with a regulation shall not be the sole reason for granting a variance.

Variances may be granted with respect to fences, walls, landscaping, screening, site area, site dimensions, yards, height of structures, courts, distances between structures, open space, signs, off-street parking and off-street loading, frontage, locational requirements and performance standards.

Authorization to grant variances does not extend to use regulations because the flexibility necessary to avoid results inconsistent with the land use objectives of this ordinance is provided by the use permit process for specified uses and by the authority of the Planning Commission, Harbor Board of Directors or Community Development Commission to determine whether a specific use belongs within one or

more of the use classifications listed in Article 4.

4102 Authority of the City Planner, Planning Commission, Harbor Board of Directors, Community Development Commission and City Council

The Planning Commission shall approve, conditionally approve, or disapprove applications for use permits or variances which are consistent with the General Plan subject to the general purposes of this ordinance, the specific purposes of the base or overlay zoning district in which a development site is located, and the provisions of this article, unless authority for a decision on a use permit is specifically assigned to the City Planner in the individual articles of this ordinance.

Within designated redevelopment areas, the City Planner shall recommend approval, conditional approval, or denial of applications for use permits or variances to the Community Development Commission (acting as the Planning Commission for the designated redevelopment area), which shall have final decision-making authority over such applications under this article.

The City Planner may refer development plans for any project to the Planning Commission for review and approval if he finds that the project may conflict with the purposes and standards of the base district and any overlay districts applicable to the project or with the purposes of this article, or if public services and facilities serving the project may be inadequate. Such projects shall be the subject of a public hearing, as provided by Section 4305.

Within the Oceanside Small Craft Harbor, recommendations shall be made by the Harbor Chief Executive Officer for processing and action by the Harbor Board of Directors, which shall have final decision-making authority, except for projects that are also within a redevelopment area, in which case the Community Development Commission shall have final authority.

For use permits involving condominium conversions of five units or more, mobile home park conversions, and regulated uses not within a redevelopment area or the Harbor, the City Council shall have final decision-making authority (see Articles 32, 34 and 36 respectively)

4103 Application for Use Permit or Variance

Applications for use permits and variances shall be initiated by submitting the following materials to the Planning Division:

- A. A completed application form, signed by the property owner or authorized agent, accompanied by the required fee, plans and mapping documentation in the form prescribed by the City Planner;

- B. A map showing the location and street address of the development site and all lots within 300 feet of the boundaries of the site; and
- C. A list, drawn from the last equalized property tax assessment roll, showing the names and addresses of the owners of record of each lot within 300 feet of the boundaries of the site. This list shall be keyed to the map required in subsection (B) above.

4104 Notice, Administrative Decision, and Public Hearing

- A. Administrative Decision. For use permit applications that only require the consideration of the City Planner, the City Planner shall administratively approve, conditionally approve, or disapprove the use permit application.
- B. Public Hearing Required. For use permit and variance applications that require the consideration of the Planning Commission, Community Development Commission or Harbor Board of Directors, a public hearing of the Planning Commission, Community Development Commission, or Harbor Board of Directors shall be held to approve, conditionally approve, or disapprove the use permit or variance application.
- C. Time of Administrative Decision or Public Hearing. Within 10 working days after acceptance of a complete application, the City Planner shall set a time and place for an administrative decision or a public hearing to be held within 60 days.
- D. Notice. Notice of the administrative decision or public hearing shall be given in the following manner:
 - 1. Published Notice. Notice shall be published in at least one newspaper of general circulation within the City at least 10 days prior to the administrative decision or public hearing on the project.
 - 2. Mailed or Delivered Notice. At least 10 days prior to the administrative decision or public hearing, notice shall be mailed to the applicant and all owners of property within 300 feet of the boundaries of the site, as shown on the last equalized property tax assessment role.
- E. Contents of Notice. The notice of the administrative decision or public hearing shall contain:
 - 1. A description of the location of the development site and the purpose of the application;
 - 2. A statement of the time, place, and purpose of the administrative decision or public hearing;

3. A reference to application materials on file for detailed information; and
4. A statement that any interested person or an authorized agent may comment or appear and be heard.

F. Multiple Applications. When applications for multiple use permits or variances on a single site are filed at the same time, the City Planner shall schedule a combined administrative decision or public hearing.

4105 Required Findings

The Planning Commission, Community Development Commission, Harbor Board of Directors or the City Planner as the case may be, may approve an application for a use permit or variance as it was applied for or in modified form as required by the City Planner, Community Development Commission, Harbor Board of Directors or Planning Commission if, on the basis of the application, plans, materials, and testimony submitted, the Planning Commission, Community Development Commission, Harbor Board of Directors or the City Planner finds:

A. For Use Permits.

1. That the proposed location of the use is in accord with the objectives of this ordinance and the purposes of the district in which the site is located.
2. That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.
3. That the proposed conditional use will comply with the provisions of this ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.
4. For properties located within the coastal zone: That the proposed conditional use will be consistent with all applicable policies of the certified Land Use Plan.

B. For Variances.

1. That because of special circumstances or conditions applicable to the development site including size, shape, topography, location or surroundings strict application of the requirements of this ordinance deprive such property of privileges enjoyed by other property in the vicinity and under identical

zoning classification;

2. That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and
3. That granting the application is consistent with the purposes of this ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district; and, if applicable,
4. For properties located within the OS District: That granting the application is consistent with the requirements of Section 65911 of the Government Code and will not conflict with General Plan policies governing orderly growth and development and the preservation and conservation of open-space lands.
5. For properties located within the coastal zone: That granting the application is consistent with all applicable policies of the certified Land Use Plan.

4106 Conditions of Approval

In approving a use permit or variance, the Planning Commission, Community Development Commission, Harbor Board of Directors or the City Planner as the case may be, may impose reasonable conditions necessary to:

- A. Achieve the general purposes of this ordinance or the specific purposes of the zoning district in which the site is located, or to make it consistent with the General Plan;
- B. Protect the public health, safety, and general welfare; and
- C. Ensure operation and maintenance of the use in a manner compatible with existing and potential uses on adjoining properties or in the surrounding area.

Limits on Conditions of Approval. No conditions of approval of a use permit shall include use, height, bulk, density, open space, parking, loading, or sign requirements that are less restrictive than those prescribed by applicable district regulations.

4107 Effective Date

Effective Date. Use permits administratively approved by the City Planner shall become effective on the date of the City Planner's administrative decision, unless appealed to the Planning Commission, or Community Development Commission, as provided for in this article. Use permits and variances approved by the Planning Commission Community Development Commission or Harbor Board of Directors shall become effective on the date of adoption of the Planning Commission,

Community Development Commission or Harbor Board of Directors resolution, unless appealed, as provided for in Article 46.

4108 Lapse of Approvals; Time Extension; Transferability; Discontinuance; Revocation

A. Lapse of Approvals. A use permit or variance shall lapse two years after the effective date of approval or conditional approval or at an alternative time specified as a condition of approval unless:

- 1. A grading permit has been issued and grading has been substantially completed and/or a building permit has been issued, and construction diligently pursued; or**
- 2. A certificate of occupancy has been issued; or**
- 3. The use is established; or**
- 4. The use permit or variance is extended.**
- 5. In cases where a use permit or variance is approved concurrently with a Tentative Map and a Final Map or Parcel Map is recorded, the use permit or variance shall be effective for an additional 24 months from the date of recordation of the Final Map or Parcel Map.**

B. Time Extension. Upon application by the project applicant filed prior to the expiration of an approved or conditionally approved use permit or variance, the time at which the use permit or variance expires may be extended by the City Planner, or the Planning Commission, Community Development Commission, or Harbor Board of Directors, as the case may be, for a period or periods not to exceed a total of three years. Application for renewal shall be made in writing to the City Planner no less than 30 days or more than 90 days prior to expiration. Decisions on Time Extensions may be appealed, as prescribed in Article 46.

C. Transferability. The validity of a use permit or a variance shall not be affected by changes in ownership.

D. Discontinuance. A use permit or variance shall lapse if the exercise of rights granted by it is discontinued for six consecutive months.

E. Revocation. A use permit or variance that is exercised in violation of a condition of approval or a provision of this ordinance may be revoked, as provided in Section 4704.

4109 Changed Plans

- A. Changed Plans. A request for changes in conditions of approval of a use permit or variance, or a change to the approved plans that would affect a condition of approval, shall be treated as a new application. The City Planner may waive the requirement for a new application if the changes requested are minor, do not involve substantial alterations or addition to the plan or the conditions of approval, and are consistent with the intent of the project's approval or otherwise found to be in substantial conformance.**

4110 Appeals

- A. Rights of Appeal and Review. Use permit decisions of the City Planner may be appealed by any interested party to the Planning Commission, or Community Development Commission, as the case may be. Use permit and variance decisions of the Planning Commission may be appealed by any interested party to the City Council.**
- B. Procedures; Public Hearings. Procedures for appeals shall be as prescribed by Article 46.**

Article 41 C Use Permits (Coastal Zone – Exclusive of Downtown)

Sections:

- 4111 Purpose
- 4112 Uses Requiring Conditional Use Permit
- 4113 Trailers or Equipment Vans
- 4114 High Rise Structures
- 4115 Expandable Homes
- 4116 Residential Uses in Commercial Zones
- 4117 Office and Commercial Uses in Industrial Zones
- 4118 Travel Trailer Parks
- 4119 Churches in Industrial Zones
- 4120 Time Share Resorts

4111 Purpose

The following uses, and all matters directly related to such uses, are declared to be possessing such unique and special characteristics as to make it impractical for them to be automatically included within some or any of the zoning districts defined in this ordinance. The location and operation of any of these uses within the Coastal Zone - exclusive of the Downtown District - shall be subject to the review and issuance of a Conditional Use Permit (CUP), pursuant to Article 41.

4112 Uses Requiring Conditional Use permit

The following uses require conditional use permits within the zones indicated. Such permits shall be issued in accordance with the provisions of this Ordinance.

- (I) Allowed within zone by right.
- (X) Allowed within the zone after granting of CUP.
- (no mark) Not allowed within zone.

	<u>F</u>	<u>Q</u>	<u>R1</u>	<u>R3</u>	<u>RT</u>	<u>OP</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>VC</u>	<u>H</u>
<u>Airports, heliports, landing fields</u>					X	X	X	X	X		
<u>Ambulance services</u>						X		X			
<u>Amusement parks</u>					X		X			X	
<u>Apartments – 20 units +</u>				X	X	X	X	X			
<u>Apartments – less than 20 units (per R-3)</u>				1	1	X	X	X			
<u>Arcades</u>								X			
<u>Automobile service stations</u>							X	X	X	X	
<u>Bars and cocktail lounges (not associated with restaurant)</u>								X		X	
<u>Bathhouses</u>								X			
<u>Boat building, indoor construction only, outside rigging areas permitted</u>									X		
<u>Campgrounds and recreation vehicle parks</u>		X						X			
<u>Car washes</u>								X			
<u>Card rooms</u>								X			
<u>Cemeteries</u>		1									
<u>Churches and accessory uses</u>			X	X	X	X	X	X	X		
<u>Clubs, lodges etc.</u>											
<u>(a) Nonprofit – neighborhood;</u>			X	X	X	X	X	X			
<u>(b) Nonprofit regional; (c) Profit</u>					X	X	X	X			
<u>Columbariums, crematories, mausoleums, mortuaries</u>		X			X	X	X	X			
<u>Convenience food stores</u>							X	X		X	
<u>Dance halls/ Dance establishments</u>								X			
<u>Day Care Facilities</u>		X	X	X	X	X	X	X	X		
<u>Drive-in facilities</u>					X		X	X		X	
<u>Escort services – include “out-call”</u>					X			X			
<u>Expandable home</u>			X	X	X						
<u>Food and Beverage Kiosk</u>					X		X	X		X	
<u>Miniature golf courses, driving ranges (separate from standard golf course)</u>					X		X	X			
<u>Golf course (public or private)</u>		1	X	X	X	X	X	X			
<u>Greenhouses (no retail sales in R-1)</u>								X			
<u>Gun shops</u>								X			
<u>High-rise structures (subject to provisions of Section 4113)</u>			X	X	X	X	X	X	X	X	
<u>Hospitals</u>			X	X	X	X	X	X			
<u>Hotels and motels</u>					X		X	X		X	
<u>Industrial uses not listed in M1 Zone</u>									X		
<u>Kennels</u>								1	1		
<u>Light equipment rental yards</u>						X		X	1		
<u>Liquor Stores</u>							X	X		X	
<u>Locker clubs</u>								X			
<u>Massage establishments</u>								X			

	<u>F</u>	<u>Q</u>	<u>R1</u>	<u>R3</u>	<u>RT</u>	<u>OP</u>	<u>C1</u>	<u>C2</u>	<u>M1</u>	<u>VC</u>	<u>H</u>
<u>Mini storage/ self storage facilities</u>								X	X		
<u>Mobile home parks</u>			X	X							
<u>Motor vehicle rental/sales (automobile, motor bike/cycle rentals, truck, trailer, camper, motorcycle, new or used sales, rentals or swap lots)</u>								X	X		
<u>Natural mineral resources development</u>	X	X	X	X	X	X	X	X	X		
<u>Parking lots or structures (commercial)</u>					X	X	X	X	X	X	
<u>Pawnshops</u>								X			
<u>Poolrooms, billiard rooms, shooting galleries</u>								X			
<u>Private security agency</u>						X	X				
<u>Public buildings or lands owned and/or operated by Federal, State, County or City</u>	X	X	X	X	X	X	X	1	1	X	
<u>Public utility stations, yards, wells and other similar facilities; electrical receiving and/or transforming stations</u>	X	X	X	X	X	X	X	X	X	X	
<u>Race tracks (animal or auto), rodeos, fairground and similar facilities</u>								X	X		
<u>Radio and television transmitters – commercial</u>								X	X		
<u>Recreation facilities (private commercial)</u>		1					X	X	X	X	
<u>Residential Care, General</u>			X	X							
<u>Restaurant Fast Food</u>					X		X	X		X	
<u>Riding and/or boarding stables, riding schools and related uses (min. site area 2 ac)</u>			X								
<u>Sanitary land fills</u>	X	X	X	X	X	X	X	X	X		
<u>Schools and Colleges</u>		1	X	X	X	X	X	X			
<u>Secondhand stores</u>							X	X			
<u>Self-service Laundromats</u>							X	X			
<u>Sewage disposal plants</u>			X	X	X	X	X	X	X	X	
<u>Shooting gallery</u>								X			
<u>Signs over 35 feet</u>			X	X	X	X	X	X	X		
<u>Swap lots</u>								X			
<u>Theaters – open air, drive-ins</u>						X		X			
<u>Theaters</u>								X			
<u>Temporary trailer or equipment vans (See Section 4113)</u>			X	X	X	X	X	X	X		
<u>Time-share resort projects</u>					X					X	X
<u>Trade, specialty schools</u>						X	X	X	X		
<u>Warehouses – self-storage</u>									X		
<u>Worm farms</u>			X								

4113 Trailers or Equipment Vans

- (1) Temporary trailer or equipment vans will only be allowed for use by financial institutions, industrial plants, public agencies or public utilities.
- (2) Prior to the filing of a conditional use permit application, the applicant shall first obtain on the application the endorsement of the Building Official, that the use would be proper within the requirements of the Building Code of the City of Oceanside.
- (3) Approval of this use shall be given on a one-year basis and a six-month extension may be granted by the Planning Commission if it is necessary to complete arrangements for construction of a permanent structure to house the use.
- (4) All utility services shall be connected in conformity to the City Building Code requirements.
- (5) Sanitation facilities shall be connected to sewer or shall utilize a self-enclosed independent system unless toilet facilities are available to the applicant on the premises or the person by whom the work is performed.
- (6) No living quarters will be allowed in the trailers or vans.

4114 High Rise Structures

- (1) The Planning Commission shall determine from the evidence presented at the hearing that all of the following facts exist:
 - (a) The proposed building or structure at the particular location and under the proposed conditions of development has complied with good planning practices, including provisions for height, building bulk, yards, open space, lot coverage, grading and related public health, safety and convenience features, and will provide for the preservation of the general welfare of the community as if developed to the height limits imposed by the provisions of the appropriate zone.
 - (b) The proposed building or structure will comply with the regulations and conditions specified in the Building Code for such structures.
 - (c) The granting of an exception will not adversely affect any adopted plan of any governmental agency.
- (2) The Planning Commission may modify or further restrict setback requirements, maximum height, off-street parking, and landscaping requirements upon a specified finding being made that it is necessary to provide for a more aesthetically pleasing project or necessary for the preservation of health, safety, peace or general welfare of persons living in or near the project.

4115 Expandable Homes

Expandable homes may be permitted subject to meeting the following criteria:

- (1) This provision shall apply only to subdivisions of five or more lots.
- (2) All exterior walls shall be completed as part of the initial construction.
- (3) All necessary building and electrical permits will be required prior to the finishing of any unfinished room(s).
- (4) All unfinished rooms shall be sealed off until completed.
- (5) All plumbing shall be capped off.
- (6) All electrical circuits shall be cut off at the panel.
- (7) The Planning Commission may add additional requirements to insure adequate safety and compatibility to the existing neighborhood.

4116 Residential Uses in Commercial Zones

Residential dwelling units may be permitted in the C-2 and C-1 zones subject to the following criteria:

- (1) The residential use is a secondary use to an office or commercial use.
- (2) The residential unit shall be located above or on the same lot as the primary commercial use.
- (3) The total number of units shall not exceed the formula of one dwelling unit per 1,000 square feet of lot area.
- (4) For new construction off-street parking shall be provided at a ratio of one space for each dwelling unit. Twenty-five percent (25%) of the parking spaces required by the office or commercial use may be included within the parking spaces provided by the residential units.
- (5) For existing structures no additional parking need be provided when the Planning Commission finds that adequate off-site parking is provided elsewhere in close proximity to the property.

4117 Office and Commercial Uses in Industrial Zones

Office and commercial uses not specifically listed within any of the industrial zones may be permitted in any industrial zone subject to the approval of a Conditional Use Permit and under the following criteria:

- (1) The amount of square footage to be used for office and commercial uses shall not exceed 25% of the gross floor area of any development as shown on a development plan or 25% of any freestanding building not part of a development plan.
- (2) Off-street parking shall be in accordance with applicable parking ordinance provisions.
- (3) The uses shall not interfere with the primary industrial uses located in the area.
- (4) An applicant may request that the Planning Commission waive the maximum square footage requirement if it can clearly be shown that the proposed use would comply with the spirit and intent of this section.
- (5) As part of the application package the names and addresses of all owners and tenants within 300 feet of the proposed use shall be submitted.
- (6) The above requirement will not be required if, as part of an approved master development plan, office and commercial uses have been clearly delineated as approved uses.

4118 Travel Trailer Parks

Travel Trailer Parks may be established, after issuance of a Conditional Use Permit, under the following criteria:

- (1) The General Plan designation must be High Density Residential.
- (2) Zoning must be R-3.
- (3) The number of spaces in any one park may not exceed twenty-five (25) trailers. When located within an existing mobile home park, the number of travel trailers shall not exceed twenty-five (25) or twenty-five percent (25%) of the total number of mobile home spaces in the park whichever is less.
- (4) All units must meet applicable health and safety codes.
- (5) Restroom and shower facilities must be provided within a reasonable distance from the travel trailers.
- (6) Off-street parking at a ratio of one space per unit shall be provided.
- (7) Landscaping shall be provided on a ratio of thirty-five percent (35%) of the lot area.
- (8) A six-foot masonry wall surrounding a travel trailer park shall be provided.

- (9) A waiver to the development standards identified above shall be considered if the park is created as a result of the displacement by a governmental agency of low and moderate income units located within the City of Oceanside.

4119 Churches in Industrial Zones

Churches may be established in the M-1 after issuance of a Conditional Use Permit, under the following criteria:

- (1) The location proposed is not in an area considered "prime" for immediate industrial development.
- (2) Parking must be provided as required by the parking regulations for churches, except that the parking may be shared with other industrial users in the vicinity if it can be shown that the uses will not be occurring simultaneously.
- (3) Buildings shall meet the requirements of the Uniform Building Code for church occupancies.
- (4) The church activities must not interfere with the primary industrial uses in the area.

4120 Time Share Resorts

Time-share resort projects may be permitted under the zoning standards of the respective zone and other applicable City policies with the issuance of a Conditional Use Permit provided the following requirements are met:

- (1) A time-share resort project shall comply with the adopted plans, goals, objectives, policies and regulations of the City of Oceanside.
- (2) A time-share resort project shall file a Tentative Map and comply with Sections all other relevant sections of the Comprehensive Zoning Ordinance and Subdivision Ordinance.
- (3) Time-share resort projects shall have primary automobile access on a collector or higher rated roadway as identified on the City Master Street Plan. For purposes of this section, The Strand shall be considered a collector roadway.
- (4) Parking for time-share resort projects. Parking spaces shall be provided at a ratio of one space per bedroom. Guest parking for time-share resort projects shall be provided at a ratio of one space for the first one to five time-share units; and thereafter, at a ratio of one space per five time-share resort units.
- (5) A time-share resort project application shall submit the following plans to address and mitigate the unique land use impacts of time-share resort projects.

- (a) Sales Plan – A Sales Plan shall address the times, areas and methods that will be used to sell the time-share resort estates or uses. Factors to be defined in the plan shall include, but are not limited to: the location, length, and marketing methods that will be utilized to include definitions as to on-site and off-site marketing and signage; and a discussion as to the potential numbers of individuals and automobiles expected during various stages of the sales effort and mitigation measures.
- (b) Management Plan – A Management Plan shall describe the methods employed by the applicant or his/her assignee to guarantee the future adequacy, stability, and continuity of a satisfactory level of management and maintenance of a time-share resort project. Means by which the City can service the project to protect the public health, safety, and general welfare shall be defined.
- (c) Contingency Plan – A Contingency Plan shall address the actions to be taken by the applicant or his/her assignee if the time-share resort project is an economic failure, or fails to sell 50% of the time-share resort estates or uses within two (2) years of receiving a permit to occupy the first unit.
- (d) Conversion Plan – If a time-share resort project application involves conversion of existing residential dwellings, a Conversion Plan shall be required consistent with City Policy.

Article 45 Amendments (City-wide)

Sections:

- 4501 Applicability
- 4502 Initiation of Amendments
- 4503 Required Application Materials for Amendments Initiated by Property Owners, Residents, or Business Owners
- 4504 Public Hearing Scope and Notice
- 4505 Duties of Planning Commission
- 4506 Duties of City Council
- 4507 Revisions of Proposed Amendments
- 4508 Resubmittal of Application
- 4509 Local Coastal Plan Amendments**

4501 Applicability

This ordinance may be amended by changing the zoning map or the regulations.

4502 Initiation of Amendments

- A. Zoning Regulations. Amendments to the zoning regulations shall be initiated by motion of the City Council or the Planning Commission, or by petition of any resident, property owner or business owner in the city.
- B. Zoning Map. Amendments to the zoning map shall be initiated by motion of the City Council or Planning Commission or by application of the owner or authorized agent of property for which the change is sought. If property that is the subject of an application is in more than one ownership, all the owners or their authorized agents shall join in filing the application.

4503 Required Application Materials for Amendments Initiated by Property Owners, Residents or Business Owners

A property owner shall initiate a zoning map amendment by filing the following with the ~~Planning Director~~ **City Planner**:

- A. A completed application form;
- B. A completed Initial Study form;
- C. A map showing the location and street address of the property that is the subject of the amendment and of all lots of record within 300 feet of the boundaries of the property;

- D. A list, drawn from the last equalized property tax assessment roll, showing the names and addresses of the owner of record of each lot within 300 feet of the boundaries of the property (This list shall be keyed to the map required by subsection [C] above.);
- E. The required fee.

A property owner, resident or business owner shall initiate a zoning text amendment by submitting a description of the amendment accompanied by the items described above.

4504 Public Hearing Scope and Notice

- A. Scope. The ~~Planning Director~~ **City Planner** shall set a date, time, and place for the public hearing and prepare a report to the Planning Commission on an application of a property owner for a zoning map amendment or a petition for a zoning regulation amendment describing the area to be considered for change and, if warranted, proposing alternative amendments.
- B. Notice of Hearing.
 - 1. Normal Procedure. Notice shall be given in accord with Government Code Sections 65090 and 65091.
 - 2. Zoning Map Amendments: 1000 or More Lots. If a proposed zoning map amendment includes 1,000 or more lots, notice may be given in accord with Government Code Section 65091(a) (3).
- C. Contents of Notice. Notices required by this section shall contain:
 - 1. A description of the amendment;
 - 2. A statement of the date, time, and place of the hearing;
 - 3. Reference to the Council or Commission motion or application and other materials on file with the ~~Planning Director~~ **City Planner** for detailed information;
 - 4. A statement that any interested party or agent may appear and be heard.

4505 Duties of Planning Commission

- A. Public Hearing. At the time and place set for the public hearing, the Planning Commission shall consider a report of the ~~Planning Director~~ **City Planner** and shall hear evidence for and against the proposed amendment. The Planning Commission may continue a public hearing to a definite date and time without additional notice.
- B. Recommendation to City Council. Following the public hearing, the Commission shall make specific findings as to whether the proposed zoning regulation or zoning

map amendment is consistent with the policies of the General Plan and the purposes of this ordinance, and shall recommend approval, conditional approval, or disapproval of the proposal as submitted or in modified form.

4506 Duties of City Council

- A. Hearing Date and Notice. Upon receipt of a Planning Commission recommendation for approval or conditional approval of an amendment to the zoning regulations or map, the Council, shall set a date and time for a public hearing on the proposed amendment. The hearing shall be held within 60 days of the date of filing of the Commission recommendation. The City Clerk shall give notice of such hearing, as required by Section 4504.
- B. Public Hearing. At the time and place set for the public hearing, the Council shall hear evidence for and against the proposed amendment. The Council may continue a public hearing to a definite date and time without additional notice.
- C. Council Decision. After the public hearing, the Council, shall approve, modify, or reject the Commission recommendation, provided that a modification not previously considered by the Commission shall be referred to the Commission for a report prior to adoption of an ordinance amending the zoning regulations or map. Failure of the Planning Commission to report within 40 days after referral or such longer period as may be designated by the Council shall be deemed approval of the proposed modification. Prior to adoption of an ordinance the Council shall make findings that the proposed regulation or map amendment is consistent with the policies of the General Plan and the notice and hearing provisions of this ordinance.

4507 Revisions of Proposed Amendments

- A. Revisions. At or after a public hearing, the Commission or the Council may determine that the public interest would be served by:
 - 1. Revising the boundaries of an area proposed for a zoning map amendment;
 - 2. Considering zoning map designations not originally presented in a motion, application, or Commission recommendation;
 - 3. Considering zoning regulation amendments not originally presented in a motion, petition, or Commission recommendation.
- B. Supplemental Notice. Notice shall be given prior to a hearing on a revised amendment, unless the Commission, or Council, finds that the revised amendment will not have impacts greater than those that would result from the amendment in its original form.

4508 Resubmittal of Application

Following denial of an application or petition for an amendment to the zoning regulations or the zoning map by the Commission or Council, no new application or petition for the same, or substantially the same, amendment shall be accepted within one year of the date of denial, unless denial is made without prejudice.

4509 Local Coastal Program Amendments

Amendments to the certified Local Coastal Program are subject to additional public noticing and processing requirements, pursuant to Coastal Act and Coastal Commission Regulations.

All amendments to the Local Coastal Program shall be processed pursuant to the following:

- A. At a minimum, all notices for public review sessions, availability of review drafts, studies, or other relevant documents or actions pertaining to the preparation of the LCP shall be mailed to:**
 - 1. any member of the public who has so requested;**
 - 2. each local government contiguous with the area that is the subject of the LCP;**
 - 3. local governments, special districts, or port or harbor districts that could be directly affected by or whose development plans should be considered in the LCP;**
 - 4. all of the state and federal agencies listed in Appendix A of the California Coastal Commission's Local Coastal Program Manual;**
 - 5. local libraries and media; and**
 - 6. other regional or federal agencies that may have an interest in or be affected by the LCP.**

Any reference in this subchapter to "interested parties" or "public agency" shall include the aforementioned persons or groups.

- B. Proposed LCP documents including review drafts shall be made available at no cost to relevant state agencies and to other interested persons and agencies upon request.**
- C. Notice of the availability of review drafts of LCP materials and transmittal of said documents pursuant to paragraphs (a) and (b) shall be made as soon as**

such drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by City. Review drafts shall also be made readily available for public perusal in local libraries, in the administrative offices of the City and at the Coastal Commission offices.

- D. Notice of the City's hearings on the LCP documents shall be given general publication and shall be transmitted to all interested persons and public agencies not less than ten (10) working days before the hearing. Where the City determines that it is legal, practical, and would increase public participation, the hearing should be held in the coastal zone or in a place easily accessible to residents of the coastal zone.

ARTICLE 11

C-2 - GENERAL COMMERCIAL (C-2 ZONE)

Section 1100: PURPOSE. The purposed of the General Commercial (C-2) Zone is to classify and set standards for retail and service commercial uses which by their nature are of relatively high intensity; are necessary to provide a wide range of shopping facilities and goods, professional and administrative offices, and entertainment establishments; and are generally within close proximity to residential zoning or development and, therefore, require a physical treatment which will guarantee compatibility with and protection to surrounding properties and their values.

Section 1101: GENERAL CRITERIA. The following general criteria are hereby established for consideration of the classification or reclassification of land to the C-2 zone:

- (a) General Plan - Compliance with the General Plan shall be established.
- (b) Location - General Commercial areas shall be located with primary access to a major or secondary street as shown on the Major Street Plan.
- (c) Need - A demonstrated public need shall be established.
- (d) Site area - A minimum of ten acres based upon the guide of three-quarters (3/4) of an acre of General Commercial for every 1,000 persons up to a maximum of thirty acres. This provision shall not apply to those lots contiguous to existing commercial zoned areas not meeting this minimum site are requirement.
- (e) Utilities - The existing utility system (water, sewer, drainage, electrical, gas and communications facilities) are adequate or new systems shall be constructed to adequately serve general commercial developments and shall be underground.
- (f) Development Plan. Concurrent with an application for reclassification to the C-2 Commercial Zone, a development plan shall be filed with and approved by the Planning Commission pursuant to the provisions of Article 16, Section 1611, governing development plans.



For any parcels currently zoned C-2 on which no specific or development plan exists and said parcels contain two-and-one-half acres or more, a development plan must be approved by the Planning Commission pursuant to the provisions of Article 16, Section 1611, governing development plans prior to the issuance of building permits.

Section 1102: PERMITTED USES. In a C-2 zone the following uses are permitted subject to the provisions of Article 27 governing off-street parking requirements.

- (1) Any use permitted in the C-1 zone.
- (2) Automobile repairing.
- (3) Restaurant Fast Food.
- (4) Restaurants full service with full alcohol and live entertainment.
- (5) Newspaper, printers.
- (6) Photo engraving.
- (7) Upholstering shops.
- (8) Retail, wholesale or service businesses catering directly to the consumer.
- (9) Frozen food lockers.
- (10) Kennels/Vets - provided all facilities shall be maintained inside an adequately soundproofed building.
- (11) Any commercial use not listed in a less restrictive zoning district.
- (12) Other uses may be permitted as contained in Article 41C ~~45~~ subject to the issuance of a conditional use permit.
- (13) Tattooing establishments, subject to compliance with Article 36.

Section 1103: FRONT YARD. See Section 1701 (e).

Section 1104: SIDE YARDS. See Section 1702 (d).

Section 1105: REAR YARDS. See Section 1703 (b).

Section 1106: HEIGHT. See Section 1709.

Section 1107: LIMITATIONS ON PERMITTED USES. See Section 1010.

Section 1108: LANDSCAPING. See Section 1731.

Section 1109: LANDSCAPING MAINTENANCE STANDARDS. See Section 1732.

Section 1110: (Deleted by Ordinance No. 84-05)

Section 1111: (Deleted by Ordinance No. 84-05)

Article 4(a) Redevelopment Project Area (D-Downtown District) Use Classifications**Sections:**

- 4109 Purpose and Applicability
- 420 Uses Not Classified
- 43021 Residential Use Classifications
- 44022 Public and Semipublic Use Classifications
- 45023 Commercial Use Classifications
- 46024 Accessory Use Classifications
- 47025 Temporary Use Classifications

4109 Purpose and Applicability

The uses classifications described herein are only applicable within the Redevelopment Project Area (**aka D-Downtown District**). The uses describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The ~~Economic Development & Redevelopment Director~~ **City Planner** shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Title. The ~~Economic Development & Redevelopment Director~~ **City Planner** may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. The ~~Economic Development & Redevelopment Director's~~ **City Planner's** decision may be appealed to the Community Development Commission.

420 Uses Not Classified

Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

43021 Residential Use Classifications

- A. Day Care, Limited. Non-medical care and supervision of up to and including fourteen persons on a less than 24-hour basis within a licensee's home for children and adults.
- B. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes roominghouse/boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).

- C. Live/Work Quarters. An area comprising one or more rooms in a building originally designed for industrial or commercial occupancy that includes cooking space, sanitary facilities, and working space for artists, artisans and similarly activities and Custom Industry uses as defined herein.
- D. Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.
- E. Residential Care, Limited. Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- F. Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.

44022 Public and Semipublic Use Classifications

- A. Child Care. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity and not within a licensee's home for persons under the age of 18.
- B. Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, youth, and senior centers.
- C. Convalescent Facilities. Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.
- D. Cultural Institutions. Non-profit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.
- E. Day Care, General. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity and not within a licensee's home for persons over the age of 18.
- F. Emergency Health Care. Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.
- G. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

- H. Hospitals. Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.
- I. Park and Recreation Facilities. Noncommercial parks, playgrounds, recreation facilities, and open spaces.
- J. Public Safety Facilities. Facilities for public safety and emergency services, including police and fire protection.
- K. Religious Assembly. Facilities for religious worship and incidental religious education and other religious facility related supportive and social services. This use classification specifically excludes private schools as defined in this section. Only Small-scale establishments occupying no more than 5,000 square feet.
- L. Residential Care, General. Twenty-four hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- M. Resource Centers. Neighborhood facilities that are City-sponsored or under the control of the City and are used for neighborhood safety, enhancement, education, health care, and other similar neighborhood programs.
- N. Schools, Public or Private. Educational institutions having a curriculum comparable to that required in the public schools of the State of California.
- O. Transitional Housing. Transitional housing encompasses both housing and appropriate supportive services for homeless persons designed to enable them to move to independent living within a 24-month period.
- P. Utilities, Major. Generating plants, electrical substations, aboveground electrical transmission lines, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or waste water treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.
- Q. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act.

45023 Commercial Use Classifications

- A. Adult Business. An Adult Business is any business, where employees, independent contractors, or patrons expose "specified anatomical areas" or engage in "specified sexual activities," or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities or "specified anatomical areas".

A use which has a majority of its conduct of activities, floor area, stock-in-trade, or revenue derived from, material characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas", shall be considered to be an Adult Business.

Adult Businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

Adult Businesses include, but are not limited to the following:

1. Adult Bookstore/Novelty Store/Video Store. An establishment which has: (1) a substantial or significant portion of its gross revenues or of its stock in trade, books, magazines, and other periodicals or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities".
2. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, and (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities".
3. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities"; or (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".

4. Adult Motel. A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
5. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
6. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
7. Figure Studio. Any premises on which the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.

The term model shall include: Any person, male or female, who poses nude to be photographed, sketched, painted, drawn or observed.

The term nude shall include: Completely without clothing; or with any pubic area exposed; or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible; or with the breasts exposed by female so that the nipples thereof are exposed.

"Figure studio" does not include any studio or classroom which is operated by any public agency, or any private post secondary educational institution authorized by California state law to issue and confer a diploma or degree.

8. Peep-Show Establishment. Peep-Show Establishment as defined in the Oceanside City Code.

BA.Ambulance Services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.

CB.Animal Sales and Services.

1. Animal Grooming. Provision of bathing and trimming services for animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.
2. Animal Product Sales. Retail products associated with domestic animals (dogs, cats, birds, snakes, and small rodents).

DE. Artists Studios. Work and display space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft. Only small-scale establishments occupying no more than 5,000 square feet.

ED. Banks and Savings and Loans. Financial institutions that provide retail banking services to individuals and businesses. This classification is limited to institutions engaged in the on-site circulation of cash money including businesses offering check-cashing facilities. This excludes check cashing businesses and loan companies not associated with a bank, credit unions or savings and loan.

1. Drive-through/Drive-up Service. Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.
2. Self-service Facilities (ATM's). Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.

EE. Catering Services. Preparation and delivery of food and beverages for off-site consumption with provision for on-site pickup or consumption not to exceed 1,000 square feet. (See also Eating and Drinking Establishments.)

GF. Commercial Recreation and Entertainment. Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, arcades and games centers having five or more coin-operated game machines and card rooms.

HG. Communications Facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

IH. Food and Beverage Kiosk.

An establishment that provides walk-up and/or drive-thru food and beverage services only through a kiosk window for off-site consumption. The sale and consumption of alcoholic beverages is prohibited.

J. Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.

1. **Convenience Markets.** Retail sales of food, beverage and small convenience items typically found in establishments with long or late hours of operation. This classification also includes mini-marts which allows fuel pumps to provide fuel for vehicles.

2. **Grocery/Neighborhood Market.** Retail sales of food and beverages for off-site preparation and consumption. Principally engaging in the retail sale of staple foodstuffs, household supplies and a sizeable assortment of fresh produce, meats, fish and dairy products. A minimum of 60% of net floor area (excluding storage, aisle ways, check out and customer service areas) shall be dedicated to the sale of staple foodstuffs and fresh items such as produce, meats, fish, and dairy products.

(Net Floor Area - The total floor area within the walls of all buildings on a lot or building site, except for the spaces therein devoted to vents, shafts, and lighting courts, and except for the area devoted exclusively to loading and unloading facilities or parking of motor vehicles).

3. **Specialty Market.** Retail sales of food and beverages for off-site preparation and consumption. Principally engaging and specializing in the retail sales of one specific product line such as produce, meat, fish, etc. Such markets may include the incidental sales of other merchandise directly related to the principal product line.

4. **Drive-thru/Drive-up.** Service from a building to persons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up).

KJ. Home Occupation. A limited-scale service or fabrication activity, which occurs in a dwelling unit or accessory building and is subordinate to the primary use of the premises for residential purposes, with limitations as set forth within the City of Oceanside business license department.

LK. Live work lofts. May include "professional services" that do not require client visits,

electronics research and development, computer software development, internet based business and the like are permitted. In addition to paper based and/or home based occupations such as engineers, architects, consultants, computer specialists, interior designers, lawyers, and real estate professionals

ML. Marine Sales, Rentals, and Services. Establishments providing supplies and equipment for shipping or related services, or pleasure boating and recreation. Typical uses include chandleries, yacht brokerage, sales, boat yards, boat docks, and sail-making lofts.

NM. Offices, Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services.

1. **Administrative/Business.** Establishments providing direct services to clients, including insurance agencies, real estate offices, post offices (not including bulk mailing distribution centers).
2. **Production.** Office-type facilities occupied by businesses engaged in the production of intellectual property. These uses include: advertising agencies, architectural, engineering, planning and surveying services, computer software production and programming services, educational, scientific and research organizations, media postproduction services, photography and commercial art studios, writers and artist's offices.
3. **Professional.** Professional or government offices including: Accounting, auditing and bookkeeping services, attorneys, counseling services, court reporting services, data processing services, detective agencies and similar services, employment, stenographic, secretarial and word processing services, government offices, literary and talent agencies, management and public relations services
4. **Temporary.** A mobile home, recreational vehicle or modular unit used as temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site, which is converted to residential use at the conclusion of its office use.
5. **Temporary Real Estate.** The temporary use of a dwelling unit within a residential development project as a sales office for the units on the same site, which is converted to residential or commercial use at the conclusion of its office use.

ON. Pawn Shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter 22 of the Municipal Code. This definition does not include Junk as defined as old or scrap

copper, brass, rope, rags, batteries, paper, trash, rubber debris, wastes, machinery, scrap wood, or junked, dismantled or wrecked automobiles, or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous material. Includes any other definitions of junk established in City ordinances.

PΘ. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

1. **Health/Club/Studio/Spa.** Establishments with equipment for exercise and physical conditioning. Facilities offering the use of exercise equipment for public use, and services such as, expertise and instruction for fitness training, weight loss, yoga and aerobics classes. Does not include massage or other medically related services.
2. **Day Spa.** A day or full service spa must provide at least four different types of services and all services must be provided on the premises during regular business hours and include some type of instructional service. These services may include any of the following: facial therapies, body treatments, hair removal, nail care, salon care, makeup application, permanent cosmetic makeup, skin care treatments, therapeutic massage, aromatherapy, hydrotherapy, and instructional services such as; nutritional counseling, weight management, stress management, medical evaluations, and fitness activities such as; private or personal fitness training, yoga, meditation, and retail products such as; skin and body care products, work out or spa clothing, juice bar, spa or health food cuisine, health food products.

All services shall be administer by licensed cosmetologists, estheticians or similar professionals and should offer a vast array of the highest quality skin, body, health care, and fitness services. At a minimum spas establishment must be: clean, and safe environment; have private treatment rooms for clients receiving a personal service; business licenses; professional, licensed estheticians and therapists; professional spa products for which estheticians and therapists have received training in their use; and have showering and changing facilities for women and men (when necessary).

3. **Accessory Massage.** Massage only permitted as an incidental use to a primary use listed above, with a use permit and must abide by all other City Ordinances and Codes.

QP. Personal Services. This classification includes: photo-copying, word processing, packaging, postal and office supply support facilities **and tattooing establishments.**

1. Laundromat/Cafe. A commercial establishment offering self-serve and assisted laundry facilities for public use in conjunction with some type of food or beverage service.
2. General Repair. The repair of small appliances, stereo equipment, electronic pieces and computers. This term does not include the repair of motor vehicles, motorcycles, lawnmowers or garden equipment.
3. Tattooing Establishment. Any establishment or business engaged in "tattooing" as defined in the Oceanside City Code, excluding "micropigmentation" or "permanent cosmetic makeup" typically provided at beauty salon or day spas.

RQ.Restaurants Fast Food. A bona fide restaurant establishment where the principal business is the sale of prepared or rapidly prepared food and beverages to guests via counter, walk up, or window service for consumption on or off the premises. The sale beer and wine for on-site consumption is permitted. As used in this definition, a "bona fide" restaurant shall have suitable kitchen facilities for cooking and/or preparation of meals. The word "meals" means the assortment of foods commonly ordered at various hours of the day.

1. Restaurant Fast Food with Drive-thru or Drive-up. A restaurant establishment providing service from a building to patrons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up). The sale and consumption of alcoholic beverages at a restaurant with a Drive-thru or Drive-up window is prohibited.

SR.Restaurants Full Service. A bona fide restaurant establishment where the principal business is the sale of food and beverages to guests via table service for consumption on the premises. The sale of beer and wine for on-site consumption shall be considered incidental to the full service restaurant. Delivery service to vehicles parked in designated parking spaces (i.e. drive-up) is allowed as an ancillary service to the Restaurant Full Service. As used in this definition, a "bona fide" full service restaurant shall have suitable kitchen facilities for cooking of complete meals. The word "meals" means the assortment of foods commonly ordered at various hours of the day; the service of only such foods as sandwiches or salads does not meet the bona fide restaurant definition.

1. Restaurants Full Service with Full Alcohol. A bona fide restaurant establishment authorized to sell distilled spirits for consumption on licensed premises. The sale of liquor is included as an appurtenant use to full service restaurants having table seating and service for more than 50 guests.

2. Restaurants Full Service with Live Entertainment – (small-scale). Restaurant establishments providing live entertainment to patrons with 5 or fewer performers at restaurant facilities with no dance floor during typical lunch and dinner hours (11:00 a.m. – 11:00 p.m.) and having 75 percent food sales compared to alcohol sales.

TS.Retail (General) Sales. The retail sale of merchandise not specifically listed under another use classification. This classification includes artist supplies, bakeries, bicycles, books, cameras and photographic supplies, clothing and accessories, department stores, drug stores, dry goods, fabrics and sewing supplies, florist and houseplants, hobby material, jewelry, luggage and leather goods, home improvement stores, furniture stores, handcrafted items, jewelry, cameras, photographic supplies (including limited processing), electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, art supplies and services, paint and wallpaper, carpeting floor covering, office supplies, bicycles, and musical instruments, parts and accessories, specialty shops, religious goods, sporting goods and equipment, stationery, toys and games and variety stores.

1. Antiques, Antique Shop. Any article which, because of age, rarity or historical significance, has a monetary value greater than the original value, or which has an age recognized by the United States Government as entitling the article to an import duty less than that prescribed for contemporary merchandise. A store or shop selling only such articles or offering them for sale shall be considered as an antique shop or store, and not considered as a dealership handling used or secondhand merchandise.
2. Custom Retail. Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale mechanical equipment not exceeding two (2) horsepower or a single kiln not exceeding eight (8) kilowatts; and the direct sale to consumers of those goods produced on-site. Products made incident to a permitted use may be sold at retail on the premises, and not more than three (3) people shall be employed in the production process. Typical uses include but are not limited to ceramic studios, candle-making shops, and custom jewelry production.
3. Secondhand Furniture, Appliance, "Collectible" and Clothing Sales. The retail sale of used furniture, appliances, "collectibles" and clothing, and secondhand dealers who are subject to Chapter 22 of the Municipal Code. This classification excludes antique shops primarily engaged in the sale of antique furniture and accessories. Only small establishments occupying no more than 5,000 square feet.
4. Wine Tasting. Retail establishments for the sale of bottled wine and which offer wine tasting and the sale of wine for on-site consumption in connection with the marketing of wines offered for sale on the premises. With the exception of wine

and featured micro-brews, no beverages or items containing alcohol shall be offered for sale or consumed on the premises. Non-alcoholic retail items associated with wine drinking such as wine glasses, decanters, ice buckets, toppers, serving implements, snack foods and non alcoholic beverages may also be offered for sale. Wine tasting shall only occur in an enclosed area not accessible for persons under the age of 21.

U. Sex Supermarket/Sex Mini-Mall. The establishment or operation within the same building of more than one of any of the following Adult Businesses: adult bookstore or adult video store, adult cabaret, adult entertainment business, adult motion picture theater, adult theater, or peep-show establishment.

VF. Travel Services. Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

WU. Automotive Rental (small scale). Rental of vehicles; limited to five rental cars.

XV. Visitor Accommodations

1. **Bed and Breakfast Inns.** Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.
2. **Hotels and Motels.** Establishments offering commercial lodging on a less than monthly basis. This classification includes incidental eating, drinking, and banquet services intended for the convenience of guests.
3. **Timeshare.** A facility or arrangement, plan, or similar program, other than an exchange program, whereby a purchaser receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, on a recurring basis for more than one year, but not necessarily for consecutive years.
4. **Fractional Ownership Hotel.** A facility providing overnight visitor accommodations where at least some of the guestrooms are owned separately by multiple owners on a fractional time basis. A fractional time basis means that an owner receives exclusive right to use of the individual unit for a certain quantity of days per year and each unit available for fractional ownership will have multiple owners. When a fractional ownership unit is not occupied by one of its owners, that unit shall be made available to the general public through the hotel operator. If a Fractional Ownership Hotel includes traditional hotel units, the facility may use those rooms alone or in combination with its fractional units to satisfy any requirement that a substantial portion of its units be permanently reserved for transient overnight accommodations in the summer season, which is

Memorial weekend through Labor Day.

5. Condominium Hotel. Condominium Hotel – Any Facility providing overnight visitor accommodations where ownership of at least some of the individual guestrooms (units) within the larger building or complex is in the form of separate condominium ownership interests, as defined in California Civil Code section 1351(f). The primary function of the Condominium Hotel is to provide overnight transient visitor accommodations within every unit that is available to the general public on a daily basis year-round, while providing both general public availability and limited owner occupancy of those units that are in the form of separate condominium ownership interests.
6. Resort. A resort is defined as a full service hotel of greater than 200 rooms with pool, spa, or similar amenities and full service restaurant.
7. Limited Use Overnight Visitor Accommodation: A facility providing overnight visitor accommodations that includes both traditional hotel lodging and some combination of fractional interests, time shares, or condo-hotel units. Limited Use Overnight Visitor accommodations shall only be allowed in the Downtown “D” District, if no more than 25% of the total rooms in such facility consist of some combination of fractional timeshare or condo-hotel units; however, no more than 15% of the total rooms in a Limited Use Overnight Visitor Accommodation may be Fractional Interest units. A Limited Use Overnight Visitor Accommodation is exempt from any requirement that a substantial portion of its units be permanently reserved for transient overnight accommodations in the summer season, which is Memorial weekend through Labor Day.

YW. Visitor Accommodations-Special requirements

1. Hotel Owner/Operator – For a Limited Use Overnight Visitor Accommodation, as defined below, a Hotel Owner/Operator is defined as the entity that owns and operates a hotel. If the hotel operator is separate from the hotel owner, each shall be severally responsible for complying with the requirements described in the Local Coastal Plan and/or recorded against the property, as well as severally liable for violations of said requirements and restrictions. The owner/operator shall manage all guestrooms/units as part of the hotel inventory, which management shall include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guest and owners. The owner/operator shall retain control of all land, structures, recreational amenities, meeting spaces, restaurants, “back of house” and other guestroom facilities.
2. Hotel Conversion - Any hotel rooms for which a Certificate of Occupancy has

been issued at the effective date of adoption of this section shall not be converted to a Limited Use Overnight Visitor Accommodation.

3. New Limited Use Overnight Visitor Accommodation projects will be required to prepare Covenants, Conditions, and Restrictions (CC&Rs) that shall be recorded concurrently with the recordation of all tract maps against all individual property titles reflecting the use restrictions and will conform to the restrictions outlined below.
4. Limited Occupancy. An owner of a timeshare interest, fractional interest or a condo hotel unit (or, if there are multiple owners of a condo hotel unit, all owners of that unit combined), and their guests, may occupy their unit no more than 90 days per calendar year with a maximum of 29 days of use during any 60 day period.
5. Condominium Hotels. Such development is subject to the following conditions/restrictions:
 - a) Any overnight visitor accommodations for which a certificate of occupancy has been issued prior to or on the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Overnight Visitor Accommodation. Nothing in the preceding sentence shall prohibit, on and after the effective date of adoption of this Section, the conversion of hotel rooms in an approved Limited Use Overnight Visitor Accommodation to timeshare, fractional or condominium-hotel units; provided that after any such conversion, the ratio of timeshare, fractional and condominium-hotel units does not exceed that required under the definition of "Limited Use Visitor Overnight Accommodations" in effect as of the date of approval of the project, with an approved amendment to the coastal development permit for the project.
 - b) A maximum of 25% of the total number of guestrooms/units in the total project as a whole may be subdivided into condominium hotel units and sold for individual ownership.
 - c) The hotel owner/operator shall retain control through ownership, lease, easements, or other legal means, of all structural elements, recreational amenities, meeting space, restaurants, "back of house" and other non-guest unit facilities. The hotel operator must be the same entity for both the traditional hotel guestroom/units and the condo hotel units.
 - d) The Condominium Hotel facility shall have an on-site hotel operator to manage booking of all guestrooms/units (both traditional and condo hotel

guestrooms/units). Whenever any individually owned hotel unit is not occupied by its owner(s), that unit shall be available for use by the general public, either through the operator or a rental agent other than the operator, on the same basis as a traditional hotel room.

- e) As used in this Section 5, the term “to book” or “booking” shall mean the confirmation of a reservation request for use of a Condominium-Hotel unit by either the owner of the unit, the owner’s permitted user or by a member of the public, and the entry of such confirmation in the operator’s reservation data base. Each owner of a Condominium-Hotel unit shall have the right, in its sole discretion, to engage either the operator or a rental agent of his or her choice to serve as the rental agent for their unit, but any engagement of a rental agent other than the operator shall be on a non-exclusive basis. The operator shall have the right and obligation to offer for public rental all time periods not reserved by a Condominium-Hotel unit owner for his or her personal use, or for the use of an owner’s permitted user, or reserved for use by a public renter procured by an owner’s rental agent who is not the operator. Whether or not the hotel operator is selected as an owner’s exclusive rental agent, the operator shall manage the booking and the reservation of all units in the Condominium-Hotel. All Condominium-Hotel unit owners, and their rental agents, must comply with the following restrictions:
 - 1. Condominium-Hotel unit owners shall not discourage rental of their units or create disincentives meant to discourage rental of their units;
 - 2. As more fully described in Section 5(t), below, Condominium- Hotel unit owners shall report and certify the rental rate and terms of any rental of the owner’s unit made independently of the operator, and the operator shall book all unit reservations in the operator’s reservation database, a service for which the operator may charge the Condominium-Hotel unit owner a reasonable fee;
 - 3. Based on its own rentals and also those certified by those owners who have reported rentals made by them directly or by another rental agent they have selected, pursuant to Section 5(t) below, the operator shall maintain records of usage for all units and the rental terms of such usage, and shall be responsible for reporting Transient Occupancy Taxes for all units, services for which the operator may charge the Condominium-Hotel unit owner a reasonable fee.
- f) The hotel operator shall market all rooms to the general public. Owners of individually owned hotel units may also independently market their units, but all booking of reservations shall be made by and through the hotel operator.

- g) The hotel operator shall manage all guestrooms/units as part of the hotel inventory of the Condominium Hotel, which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing guestrooms/units for use by guests/owners, a service for which the operator may charge the unit owner a reasonable fee.
- h) If the hotel operator is not serving as the exclusive rental agent for an individually owned unit, then the hotel operator shall nevertheless have the right, working through the individually owned units' owners or their designated agents, to book any unoccupied room to fulfill public demand. The owner or an owner's rental agent may not withhold units from use unless they have already been reserved for use by the owner, consistent with the owner's maximum use right, as set forth in Section 5(l), below. In all circumstances, the hotel operator shall have full access to the unit's reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder.
- i) All guestrooms/unit keys shall be electronic and created by the hotel operator upon each new occupancy to control the use of the individually owned units.
- j) All individually owned hotel units shall be rented at a rate similar to that charged for the traditional hotel rooms of a similar class or amenity level in the California coastal zone.
- k) The hotel operator shall maintain records of usage by owners and guests and rates charged for all guestrooms/units and shall be responsible for reporting Transient Occupancy Taxes for all units, services for which the operator may charge the Condominium-Hotel unit owner a reasonable fee.
- l) Each individually owned hotel unit shall be used by its owner(s) (no matter how many owners there are) or their guests for not more than 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period.
- m) The occupancy limitations identified in Section 5(k) above, shall be unaffected by multiple owners of an individually owned hotel unit or the sale of a unit to a new owner during the calendar year, meaning that all such owners of any given unit shall be collectively subject to the occupancy restriction as if they were a single continuous owner.
- n) No portion of the Condominium Hotel may be converted to full-time occupancy of a condominium or any other type of Limited Use Overnight

Visitor Accommodations or other project that differs from the approved Condominium-Hotel, other than as provided for in Section 5(a), above.

- o) Prior to issuance of a building permit and in conjunction with approval of a coastal development permit for a Condominium Hotel within the Downtown "D" District, the landowner(s) of the property upon which the traditional guestrooms/units (i.e. transient hotel rooms) are developed shall execute and record a deed restriction(s), subject to the review and approval of the ~~Economic and Community Development Director~~ **City Planner** and the Executive Director of the Coastal Commission, which prohibits the conversion of those traditional hotel guestrooms/units to any other type of ownership (e.g. timeshares or condo-hotel units, except as provided in Section 5(a) above) without an approved coastal development permit. The deed restriction shall be submitted for review and approval of the ~~Economic and Community Development Director~~ **City Planner** and the Executive Director of the Coastal Commission prior to issuance of the coastal development permit. The deed restriction shall run with the land, shall be executed and consented to, through recordation of a lease restriction, by any existing lessee(s) of the affected property(ies) and shall be binding on the landowner(s) and any lessee(s), and on all successors and assigns of the landowner(s) and any lessee(s), including without limitation any future lien holders. This deed restriction(s) shall not be removed or changed without approval of an amendment to the underlying coastal development permit and approval of an amendment to the LCP by the Coastal Commission. However, minor changes that do not conflict with Sections 5(a) through (n) above may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ **City Planner** and the Executive Director of the Coastal Commission that such an amendment is not legally required.
- p) The hotel owner shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the ~~Economic and Community Development Director~~ **City Planner** for review and approval and to the Executive Director of the Coastal Commission for review and comment, a Declaration of Restrictions or CC&Rs (Covenants, Conditions & Restrictions) which shall include:
1. All the specific restrictions listed in Sections 5(a) through (n) above;
 2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 3. A statement that provisions of the CC&Rs (Declaration of Restrictions) that

reflect the requirements of Sections 5(a) through (n) above, cannot be changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with Sections 5(a) through (n) above may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ **City Planner** that an amendment is not legally required. If there is a section of the CC&Rs (Declaration of Restrictions) related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&Rs (Declaration of Restrictions) on amendments.

- q) The CC&Rs (Declaration of Restrictions) described above shall be recorded against all individual property titles simultaneously with the recordation of the subdivision map for the Condominium Hotel.
- r) The provisions of the CC&Rs (Declaration of Restrictions) described above shall not be changed without approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with Sections 5(a) through (n), above, may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ **City Planner**, after a copy of the proposed amendments have been submitted to the Executive Director of the Coastal Commission for comment, that an amendment is not legally required.
- s) The hotel owner/operator or any successor-in-interest shall be responsible for ensuring that through no act or omission will it assist, enable or in any other manner facilitate any other party subject to these restrictions in violating any of these terms and conditions. Each owner of an individual guestroom/unit is severally liable for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's unit. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
- t) All documents related to the marketing and sale of the condominium interests, including marketing materials, sales contracts, deeds, CC&Rs and similar documents, shall notify buyers of the following:
 - 1. Each owner of any individual Condominium Hotel unit is severally liable for any violations of the terms and conditions of the coastal development permit with respect to the use of that owner's unit; and

2. The occupancy of a Condominium Hotel unit by its owner(s) and their guests is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not in use by the owner, the unit shall be made available for rental by the hotel operator to the general public pursuant to the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy; and
3. Each owner of a Condominium Hotel unit who does not retain the operator of the hotel as his or her rental agent shall be obligated by the governing documents of the Condominium Hotel to truthfully report to the operator (and to certify each such report) each effort, if any, he or she has made to rent his or her unit to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of each rental offer which has been accepted by a member of the public.
 - u) The hotel owner/operator and any successor-in-interest hotel owner or operator, and each future individual unit owner shall obtain, prior to sale of individual units, a written acknowledgement from the buyer that occupancy by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period that the unit must be available for rental by the hotel operator to the general public when not occupied by the owner, and that there are further restrictions on use and occupancy in the coastal development permit and the CC&Rs (Declaration of Restrictions).
 - v) The hotel owner/operator and any successor-in-interest hotel owner or operator shall monitor and record hotel occupancy and use by the general public and the owners of individual hotel guestrooms/units throughout each year. The monitoring and record keeping shall include specific accounting of owner usage for each individual Condominium Hotel guestroom/unit. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections 5(a) through (n) above. The hotel owner/operator shall also maintain documentation of rates paid for hotel occupancy and of advertising and marketing efforts. All such records shall be maintained for ten years and shall be made available to the ~~Economic and Community Development Director~~ **City Planner** and the Executive Director of the Coastal Commission upon request and to any auditor required by Section 5(w) below. Within 30 days of commencing hotel operations, the hotel owner/operator shall submit notice to the ~~Economic and Community Development Director~~ **City Planner** and to the Executive Director of the Coastal Commission of commencement of hotel operations.
 - w) Within 120 days of the end of the first calendar year of hotel operations, the

hotel operator shall retain an independent auditing company, approved by the ~~Economic and Community Development Director~~ City Planner, to perform an audit to evaluate compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring by the hotel owner/operator. The hotel operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the ~~Economic and Community Development Director~~ City Planner, for review and approval, and shall be available to the Executive Director of the Coastal Commission upon request, within six months after the conclusion of the first year of hotel operations. Within 120 days of the end of each succeeding calendar year, the hotel operator shall submit a report regarding compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Condominium Hotel to the ~~Economic and Community Development Director~~ City Planner and the Executive Director of the Coastal Commission. The audit required after the first year of operations and all subsequent reports shall evaluate compliance by the hotel operator and owners of individual Condominium Hotel guestrooms/units during the prior one-year period. After the initial five calendar years, the one-year reporting period may be extended to two years upon written approval of the ~~Economic and Community Development Director~~ City Planner. The ~~Economic and Community Development Director~~ City Planner may grant such approval if each of the previous reports revealed compliance with all restrictions imposed above. The ~~Economic and Community Development Director~~ City Planner or the Executive Director of the Coastal Commission may, by written notice to the operator, require a third party audit regarding the subject matter of the reports required in this section for the prior three (3) or fewer calendar years if he or she reasonably believes that the foregoing submitted reports are materially inaccurate. The governing documents for the Condominium Hotel shall require the operator and each owner of a condominium to fully cooperate with and to promptly produce any existing documents and records which the auditor may reasonably request. The expense of any such audit shall be payable by the owner's association for the Condominium Hotel project.

- x) The hotel owner/operator, or any successor-in-interest, shall be responsible for complying with the terms and conditions stated above at all times in perpetuity and shall be liable for violating these terms and conditions. If the hotel owner and the hotel operator are or at any point become separate entities, the hotel owner and the hotel operator shall each be severally responsible for complying with the requirements identified above, and for reporting material non-compliance to the ~~Economic and Community Development Director~~ City

Planner. If the hotel owner and hotel operator are or become separate entities, they shall be severally liable for violations of the terms and conditions (restrictions) identified above.

- y) A coastal development permit application for a Condominium Hotel shall include a plan specifying how the requirements outlined in Article 4(a) Section 450 "T" of the Zoning Ordinance will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC&Rs (Declaration of Restrictions) that will be used to satisfy the requirements and the form of the rental program agreement to be entered into between the individual unit owners and the hotel owner/operator. The plan must demonstrate that the applicant will establish mechanisms that provide the hotel operator and any successor-in-interest hotel operator adequate legal authority to implement the requirements of Article 4(a) Section 450 "T" of the Zoning Ordinance above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Condominium Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Section Article 4(a) Section 450 "T" of the Zoning Ordinance and this section including deed restrictions and CC&Rs (Declaration of Restrictions) shall not occur without an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ **City Planner**, after a copy has been delivered to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.
6. The Fractional Ownership Hotel and the Traditional Hotel which together comprise a Limited Use Overnight Visitor Accommodations are subject to the following conditions/restrictions:
- a) As used in Section 6, the following terms are defined as:
 - (i) "booking" or "to book" shall mean the confirmation of a reservation request for use of a Fractional Ownership Hotel unit by either the owner of a Fractional Interest, his permitted user, an Exchange User or by a member of the public, and the entry of such confirmation in the operator's reservation data base.
 - (ii) "Exchange Program" means the use of a unit in a Fractional Ownership Hotel by a member who is the owner of occupancy rights in a unit of a fractional project other than the Fractional Ownership Hotel, or in the Fractional Ownership Hotel during time periods other than the particular time period for which a unit in the Fractional Ownership

Hotel has been reserved for exchange, pursuant to a program:

- (a) in which the owners of fractional interests in fractional interest projects other than the Fractional Ownership Hotel is operated and/or managed by the operator of the Fractional Interest Hotel or by another entity, or
 - (b) which is operated by an entity that specializes in interval exchanges, where such member has exchanged their occupancy rights for the use of a Fractional Ownership Hotel unit during the particular time period for which a unit in the Fractional Ownership Hotel has been reserved for exchange.
- (iii) "Exchange Use" means the use of a unit in the Fractional Ownership Hotel pursuant to an Exchange Program.
 - (iv) "Exchange User" means a person who is occupying a Fractional Ownership Hotel unit for Exchange Use.
 - (v) "Fractional Interest" means a Timeshare in a Fractional Ownership Hotel where the undivided interest in a condominium conveyed to an owner is greater than a $1/26^{\text{th}}$ undivided interest, or, if the Fractional Ownership Hotel is not subdivided into condominiums, in which the undivided interest conveyed to an owner is greater than a $1/26 \times$ (the number of units in the Fractional Ownership Hotel) undivided interest in the legal parcel comprising the Fractional Ownership Hotel.
 - (vi) "Fractional Ownership Hotel" means the portion of a Limited Use Overnight Visitor Accommodation in which ownership of individual units is comprised of Fractional Interests.
 - (vii) "Traditional Hotel" means the portion of a Limited Use Overnight Visitor Accommodation that is operated as a traditional hotel (i.e. the guestrooms are not owned or operated as timeshares or fractional units).
- b) Any overnight visitor accommodations for which a certificate of occupancy has been issued prior to or on the effective date of adoption of this Section shall not be permitted to be converted to a Limited Use Visitor Overnight Accommodation. Nothing in the proceeding sentence shall prohibit, on and after the effective date of adoption of this Section, the conversion of units in a Fractional Interest project or Condominium Hotel to Fractional Interest or Condominium Hotel units; provided that after any such

conversion, the ratio of Fractional Interest and Condominium Hotel units does not exceed that required under the definition of "Limited Use Visitor Overnight Accommodations" in effect as of the date of approval of the project.

- c) A maximum of 15% of the total number of guestrooms/units in the project as a whole may be subdivided into Fractional Interests.
- d) Either the owner/operator of the Traditional Hotel or the owner or operator of the Fractional Ownership Hotel shall retain control through ownership, lease, easements, or other legal means, of all structural elements, recreational amenities, meeting space, restaurants, "back of house" and other non-guest unit facilities for both the Traditional Hotel and the Fractional Ownership Hotel.
- e) The Fractional Ownership Hotel facility shall have an on-site hotel operator to manage rental/booking of all guestrooms/units in the Fractional Ownership Hotel. The on-site hotel operator for the Fractional-Ownership Hotel may be a different entity from the on-site hotel operator for the Traditional Hotel in the Limited Use Overnight Visitor Accommodation of which the Fractional Ownership Hotel is a part. Each Fractional Interest owner shall have the right, in its sole discretion, to engage a rental agent of his or her choice, other than the operator, to serve as the rental agent for their Fractional Interest, but any engagement of a rental agent other than the operator shall be on a non-exclusive basis commencing sixty (60) days in advance of a time period the owner has a right to reserve and use under the governing documents for the Fractional Ownership Hotel. The operator of the Fractional Ownership Hotel shall have the right and obligation to offer for public rental all time periods not reserved by a Fractional Interest owner for his or her personal use, for "Exchange Use" or for use by an owner's permitted user sixty (60) days in advance of any such occupancy period. On and within this sixty (60) day window, members of the public shall have reservation rights equal to those for owners, their permitted users and Exchange Users. The Fractional Ownership Hotel operator shall manage the booking of the reservation of all guestrooms/units in the Fractional Ownership Hotel. All Fractional Interest owners, and their rental agents, must comply with the following restrictions:
 - (i) except for their personal use, or use by an owner's permitted users or an Exchange User, Fractional Interest owners shall not discourage rental of their units or create disincentives meant to discourage rental of their units during their fractional time periods;

- (ii) Fractional Interest owners shall certify the rental rate and terms of any rental of the owner's occupancy periods made independently of the operator, and the hotel operator shall book all unit reservations in the operator's reservation database, a service for which the operator may charge the Fractional Interest owner a reasonable fee;
 - (iii) The Fractional Ownership Hotel operator shall maintain records of usage for all units and the rental terms of such usage, and shall be responsible for reporting Transient Occupancy Taxes for all units, services for which the operator may charge the Fractional Interest owner a reasonable fee.
- f) The operator shall market the rental of available units in the Fractional Ownership Hotel to the general public and shall have a right to charge each Fractional Interest owner a reasonable fee for such marketing.
 - g) Subject to the requirements of the California Business and Professions Code pertaining to management agreements for Timeshare plans, including, without limitation, restrictions on the term of such management agreements, the operator shall manage all units in a Fractional Ownership Hotel, which management will include the booking of reservations, mandatory front desk check-in and check-out, maintenance, cleaning services and preparing units for use by guests/owners, a service for which the hotel operator may charge the unit owner a reasonable fee.
 - h) The operator, as the non-exclusive rental agent for the owner of a Fractional Interest entitled to an occupancy period, shall offer for rent to the public any guestroom/unit which has not been reserved by its owner, his or her permitted user or an Exchange User commencing sixty (60) days in advance of such occupancy period. No Fractional Interest owner or such owner's rental agent may withhold units which have not been reserved by the owner or such owner's permitted users or an Exchange User sixty (60) days or less prior to the commencement of an occupancy period from rental to the public. Nothing in the preceding sentence shall mean that an owner of a Fractional Interest, or such owner's permitted users or an Exchange User, may not elect to reserve a unit in a Fractional Ownership Hotel at any time after the commencement of such sixty (60) day period, provided that the operator or the owner's rental agent has not then rented the unit to a member of the general public. In all circumstances, the Fractional Ownership Hotel operator shall have full access to the guestroom/unit's reservation and booking schedule so that the operator can fulfill its booking and management obligations hereunder.

- i) All guestrooms/unit keys shall be electronic and created by the operator upon each new occupancy to control the use of the individually owned Fractional Ownership Hotel units.
- j) All individually owned Fractional Ownership Hotel units shall be rented at a rate similar to that charged for traditional hotel rooms of a similar class or amenity level in the California coastal zone.
- k) Each individually owned Fractional Interest shall be used by its owner(s) or their guests to occupy a unit in a Fractional Ownership Hotel for not more than 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period.
- l) The use period limitations identified in Section 6(k) above, shall be unaffected by multiple owners of a Fractional Interest or the sale of a Fractional Interest to a new owner during the calendar year, meaning that all such owners of any given Fractional Interest shall be collectively subject to the use restriction in this Section 6 as if they were a single, continuous owner. No portion of a Fractional Ownership Hotel may be converted to a full-time occupancy condominium or to any other type of a Limited Use Overnight Visitor Accommodation other than as provided for in Section 6(b) above.
- m) Prior to issuance of a building permit and in conjunction with approval of a coastal development permit for the Limited Use Overnight Visitor Accommodation of which the Fractional Ownership Hotel is a part, the landowner(s) of the property(ies) within the Downtown "D" District upon which the associated Traditional Hotel is developed shall execute and record a deed restriction(s), subject to the review and approval of the ~~Economic and Community Development Director~~ **City Planner** after delivery to the Executive Director of the Coastal Commission for review and comment, which prohibits the conversion of those traditional hotel guestrooms/units to any other type of ownership, except as permitted in Section 6(b) above. The deed restriction shall be submitted for review and approval of the ~~Economic and Community Development Director~~ **City Planner** after delivery to the Executive Director of the Coastal Commission for review and comment, prior to issuance of the coastal development permit. The deed restriction shall run with the land, shall be executed and consented to by any existing lessee(s) of the affected property(ies), through recordation of a lease restriction, and shall be binding on the landowner(s) and lessee(s), and on all successors and assigns of the landowner(s) and lessee(s), including without limitation any future lien holders. This deed restriction(s) shall not be removed or

changed without approval of an amendment to the underlying coastal development permit and approval of an amendment to the LCP by the Coastal Commission. However minor changes that do not conflict with Sections 6(a) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that such an amendment is not legally required.

- n) The hotel owner/operator shall be required to submit, prior to issuance of a coastal development permit, for the review and approval of the ~~Economic and Community Development Director~~ City Planner and review and comment by the Executive Director of the Coastal Commission, a Declaration of Restrictions or CC&Rs (Covenants, Conditions & Restrictions) which shall include:
 - 1. All the specific restrictions listed in Sections 6(b) through (l) above;
 - 2. Acknowledgement that these same restrictions are independently imposed as condition requirements of the coastal development permit;
 - 3. A statement that provisions of the CC&Rs (Declaration of Restrictions) that reflect the requirements of Sections 6(b) through (l) above cannot be changed without approval of an LCP amendment by the Coastal Commission and subsequent coastal development permit amendment. However, minor changes that do not conflict with Sections (b) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required. If there is a section of the CC&Rs (Declaration of Restrictions) related to amendments, and the statement provided pursuant to this paragraph is not in that section, then the section on amendments shall cross-reference this statement and clearly indicate that it controls over any contradictory statements in the section of the CC&Rs on amendments.
- o) The CC&Rs (Declaration of Restrictions) described above shall be recorded against all individual property titles simultaneously with the recordation of the subdivision map for the Fractional Ownership Hotel.
- p) The provisions of the CC&Rs (Declaration of Restrictions) described above shall not be changed without approval of an amendment to the LCP by the

Coastal Commission. However, minor changes that do not conflict with Sections 6(b) through (l) above may be processed as an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ City Planner, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.

- q) The Fractional Ownership Hotel owner/operator or any successor-in-interest shall be responsible for ensuring that through no act or omission will it assist, enable, or in any other manner facilitate any other party subject to these restrictions in violating any of these terms and conditions. Each owner of an individual guestroom/unit is severally liable for any and all violations of the terms and conditions imposed by the special conditions of the coastal development permit with respect to the use of that owner's Fractional Interest. Violations of the coastal development permit can result in penalties pursuant to Public Resources Code Section 30820.
- r) All documents related to the marketing and sale of the Fractional Interests, including marketing materials, sales contracts, deeds, CC&Rs and similar documents, shall notify buyers of the following:
 1. Each owner of a Fractional Interest is severally liable for any violations of the terms and conditions of the coastal development permit with respect to the use of that owner's Fractional Interest;
 2. The occupancy of a Fractional Ownership Hotel unit by the owner of a Fractional Interest is restricted to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, and when not reserved or in use by the owner, the owner's permitted user or an Exchange User, the owner's time shall be made available for rental by the operator and by the owner's own rental agent to the general public sixty (60) days in advance of an occupancy period pursuant to the terms of the coastal development permit and that the coastal development permit contains additional restrictions on use and occupancy; and
 3. Each owner of a Fractional Interest who does not retain the operator as his or her exclusive rental agent is obligated by the governing documents of the Fractional Ownership Hotel to truthfully report to the operator (and to certify each such report) each effort, if any, he or she has made to rent his or her unit to a member of the public, and the terms and conditions of any such offer, and the terms and conditions of

each rental offer which has been accepted by a member of the public.

- s) The initial owner of a Fractional Interest and any successor-in-interest owner of a Fractional Interest, and each future individual unit owner shall obtain, prior to sale of a Fractional Interest, a written acknowledgement from the buyer of that Fractional Interest that occupancy of a unit by the owner is limited to 90 days per calendar year with a maximum of 29 consecutive days of use during any 60 day period, that the unit must be available for rental by the operator and/or the buyer's rental agent to the general public at least sixty (60) days in advance of an occupancy period, and that there are further restrictions on use and occupancy in the coastal development permit and the CC&Rs (Declaration of Restrictions).
- t) The operator and any successor-in-interest to the operator shall monitor and record the occupancy and use of the Fractional Ownership Hotel by the general public and the owners of individual Fractional Interests throughout each year. The monitoring and record keeping shall include specific accounting of all owner usage of each individual guestroom/unit in the Fractional Ownership Hotel. The records shall be sufficient to demonstrate compliance with the restrictions set forth in Sections 6(a) through (l) above. The owner/operator shall also maintain documentation of rates paid for hotel occupancy and of marketing efforts by the operator, and by the rental agents of owners other than the operator. All such records shall be maintained for ten years and shall be made available to the ~~Economic and Community Development Director~~ **City Planner** and the Executive Director of the Coastal Commission upon request and to any auditor required by Section 6(u) below. Within 30 days of commencing hotel operations, the operator of the Fractional Ownership Hotel shall submit notice to the ~~Economic and Community Development Director~~ **City Planner** and to the Executive Director of the Coastal Commission of commencement of hotel operations.
- u) Within 120 days of the end of the first calendar year of hotel operations, the Fractional Ownership Hotel operator shall retain an independent auditing company, approved by the ~~Economic and Community Development Director~~ **City Planner**, to perform an audit to evaluate compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the hotel owner/operator. The hotel owner/operator shall instruct the auditor to prepare a report identifying the auditor's findings, conclusions and the evidence relied upon, and such report shall be submitted to the ~~Economic and Community Development Director~~ **City Planner**, for review and approval, and shall be

available to the Executive Director of the Coastal Commission upon request, within six months after the conclusion of the first year of hotel operations. Within 120 days of the end of each succeeding calendar year, the hotel operator shall submit a report to the ~~Economic and Community Development Director~~ City Planner and the Executive Director of the Coastal Commission, regarding compliance with the special conditions of the coastal development permit which are required by this Section regarding occupancy restrictions, notice, recordkeeping, and monitoring of the Fractional Ownership Hotel. The audit required after one year of operations and all subsequent reports shall evaluate compliance by the Fractional Ownership Hotel operator and owners of individual Fractional Interests during the prior one-year period. After the initial five calendar years, the one-year reporting period may be extended to two years upon written approval of the ~~Economic and Community Development Director~~ City Planner. The ~~Economic and Community Development Director~~ City Planner may grant such approval if each of the previous reports revealed compliance with all restrictions imposed above. The ~~Economic and Community Development Director~~ City Planner or the Executive Director of the Coastal Commission may, by written notice to the operator, require a third party audit regarding the subject matter of the reports required in this section for the prior three (3) or fewer calendar years if he or she reasonably believes that the foregoing submitted reports are materially inaccurate. The governing documents for the Fractional Ownership Hotel shall require the operator and each owner of a Fractional Interest to fully cooperate with and to promptly produce any existing documents and records which the auditor may reasonably request. The expense of any such audit shall be payable by the owner's association for the Fractional Ownership Hotel.

- v) The Fractional Ownership Hotel owner/operator and any successor-in-interest, shall be responsible for complying with the terms and conditions stated above at all times in perpetuity and shall be liable for violating these terms and conditions. If the Fractional Ownership Hotel owner and the Fractional Ownership operator at any point become separate entities, the Fractional Ownership Hotel owner and the Fractional Ownership Hotel operator shall each be severally responsible for complying with the requirements identified above. If the Fractional Ownership Hotel owner and Fractional Ownership Hotel operator become separate entities, they shall be severally liable for violations of the terms and conditions (restrictions) identified above.
- w) Prior to the issuance of a coastal development permit for a Fractional Ownership Hotel, an applicant shall submit a plan for approval specifying

how the requirements outlined in Article 4(a) Section 450 "T" of the Zoning Ordinance will be implemented. The plan must include, at a minimum, the form of the sale, deed and CC&Rs (Declaration of Restrictions) that will be used to satisfy the requirements and the form of the rental program agreement that will be offered to the Fractional Interest owners by the Fractional Ownership Hotel operator. The plan must demonstrate that the applicant will establish mechanisms that provide the Fractional Ownership Hotel operator and any successor-in-interest Fractional Ownership Hotel operator adequate legal authority to implement the requirements of Article 4(a) Section 450 "T" of the Zoning Ordinance above. An acceptable plan meeting these requirements shall be incorporated into the special conditions of approval of any coastal development permit for a Fractional Ownership Hotel. Any proposed changes to the approved plan and subsequent documents pertaining to compliance with and enforcement of the terms and conditions required by Article 4(a) Section 450 "T" of the Zoning Ordinance and this section including deed restrictions and CC&Rs (Declaration of Restrictions) shall not occur without an amendment to the coastal development permit, unless it is determined by the ~~Economic and Community Development Director~~ **City Planner**, after delivery to the Executive Director of the Coastal Commission for review and comment, that an amendment is not legally required.

7. Protection of Existing Overnight Visitor Accommodations - Any overnight visitor accommodations for which a Certificate of Occupancy has been issued prior to or on the effective date of adoption of this section shall not be converted to a Limited Use Overnight Visitor Accommodation. Demolition of existing lower cost overnight visitor accommodations shall be discouraged. If demolition of existing lower cost units is authorized, mitigation shall be provided as specified below:

- a) Monitoring of Lower Cost Units in the Coastal Zone

The City shall monitor a LUP requirement to insure that a minimum of 400 lower cost units shall be maintained in the Coastal Zone by reporting the status of the current number of lower cost units within the Coastal Zone within all staff reports containing visitor serving accommodations. This information shall be forwarded to the Coastal Commission prior to the issuance of the Coastal Permit.

- b) Assistance to Existing Lower Cost units in the Coastal Zone

At such time as the inventory of lower cost units would be at 405, the City

would pursue outreach to the existing property owners in an attempt to assure their short and long term survival. Resources that can be brought to bear to assist them could include the City's Façade Enhancement Program, in which matching funds can be made available for painting, awnings, signage and landscaping.

c) Restrictions to Protect Lower Cost Units in the Coastal Zone

Any project that is required to provide lower cost units shall be required to record a deed restriction against the property that requires the protection of the lower cost units, such that the demolition and re-build of lower cost units would not result in the total number of lower cost units to be less than a total of 400 units in the Coastal Zone.

- d) When referring to overnight accommodations, lower cost shall be defined by a certain percentage of the statewide average room rate as calculated by the Smith Travel Research website (www.visitcalifornia.com). A suitable methodology would base the percentage on market conditions in San Diego County for the months of July and August and include the average cost of motels/hotels within 5 miles of the coast that charge less than the Statewide average or 82%. High cost would be room rates that are 20% higher than the Statewide average, and moderate cost room rates would be between high and low cost. The range of affordability of new and/or replacement hotel/motel development shall be determined as part of the coastal development permit process and monitored as part of the City's inventory of visitor overnight accommodations.

46024 Accessory Use Classifications

- A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units ("second units") and home occupations.

47025 Temporary Use Classifications

- A. Agricultural Specialty Sales, Seasonal. Retail sale of seasonal specialty items for a period not to exceed 45 days (e.g. Christmas Tree Sales, Pumpkin Sales).
- B. Yard/Garage Sales. A sales event advertised by any means at a residential location where members of the public may purchase identifiable or tangible items of personal property; provided however, it shall not mean any event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued

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by the City. Items sold shall be limited to personal property owned by the occupant of the property and/or surrounding neighbors.

Article 12 D Downtown District

Sections:

- 1210 Specific Purposes
- 1220 Land Use Regulations by Subdistrict
- 1230 Development Regulations
- 1231 Transit Oriented Development
- 1232 Downtown District Property Development Regulations
- 1234 Reception Antennas and Co-User Facilities
- 1235 Nonconforming Commercial Structures
- 1240 Review of Plans
- 1250 Amendments

1210 Specific Purposes

In addition to the general purposes listed in Article 1, the specific purposes of the D Downtown District are to:

- A. To promote the long-term viability of and rejuvenation of the Redevelopment Project Area and to protect and enhance primarily boating and water-dependent activities; and secondarily other public-oriented recreation uses in the Oceanside Small Craft Harbor
- B. Maintain and enhance an appropriate mix of uses; and
- C. Provide land-use controls and development criteria consistent with the General Plan, the Redevelopment Plan, and the Local Coastal Program.

Consistent with these purposes, it is the intent of the D District to establish special land-use subdistricts with individual objectives as described below.

Subdistrict 1: To provide a commercial/retail and office complex offering a wide variety of goods and services to both the community at large and to tourists and visitors. Residential uses are encouraged when and where appropriate.

Subdistrict 1(A): To provide a commercial/retail and office complex promoting the conservation, preservation, protection, and enhancement of the historic district and to stimulate the economic health and visual quality of the community to tourists and visitors. Residential uses are encouraged when and where appropriate.

Subdistrict 2: To provide sites for a financial center supported by professional offices. Residential Uses are permitted when and where appropriate as part of a Mixed-Use Development.

Subdistrict 3: To provide for a mix of office development, interspersed with residential development, in response to market demands.

Subdistrict 4(A): To provide a mix of transient and permanent residential uses along the South Strand between Tyson and Wisconsin streets.

Subdistrict 4(B): To provide transient and permanent residential uses (hotels and motels) in close proximity to the beach and recreational facilities.

Subdistrict 5: To provide a high-density residential neighborhood in an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

Subdistrict 5(A): To provide a medium-density residential neighborhood at South Pacific Street with an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

Subdistrict 6(A): To provide sites for highway business and tourist/visitor uses related to the harbor and the Interstate 5 freeway, primarily oriented to visitor-serving commercial establishments.

Subdistrict 6(B): To provide sites for highway business and tourist/visitor uses related to the harbor and the Interstate 5 freeway, primarily oriented to recreational commercial facilities. Residential uses are allowed as part of a mixed use project.

Subdistrict 6(C): To provide sites for uses supporting the Oceanside Small Craft Harbor, consistent with the Harbor Precise Plan.

Subdistrict 6(D): To provide a recreational facility for the purpose of boating-oriented and park-oriented passive and active recreation, and appropriate ancillary commercial and residential uses consistent with the Harbor Precise Plan.

Subdistrict 7(A): To provide sites for a high-density residential environment in an urban setting in close proximity to shopping, employment, transportation and recreational facilities.

Subdistrict 7(B): To provide for a mix of recreational and commercial uses conveniently located near recreational and residential areas. Residential uses are allowed as part of a mixed use project.

Subdistrict 8(A): To provide a mix of hospital and medical uses.

Subdistrict 8(B): To provide a mix of hospital and medical uses, office development, interspersed with residential development in response to market demand.

Subdistrict 9: To provide opportunities for commercial uses supporting other land uses within the downtown and serving the entire community. Residential uses are encouraged where appropriate.

Subdistrict 10: To provide a joint open space and recreational area within the floodplain of the San Luis Rey riverbed.

Subdistrict 11: To provide sites for commercial uses serving the adjacent residential neighborhood.

Subdistrict 12: To provide a special tourist/visitor oriented subdistrict that relates to the pier, ocean, beach, marina and freeway.

Subdistrict 13: To provide for a mix of visitor/commercial and office uses. Residential uses are allowed as part of a mixed use project.

Subdistrict 14: To provide for public transportation and railway uses.

Subdistrict 15: To provide for public facilities, public parks, open spaces, and other public oriented uses.

1220 Land Use Regulations by Subdistrict

In Schedule D-1, the letter "P" designates use classifications permitted in the D Downtown District. The letter "U" designates use classifications permitted on approval of a Conditional Use Permit upon approval by the Community Development Commission. The letter "C" designates use classifications permitted upon approval of an administrative Use Permit upon recommendation of the Redevelopment Downtown Advisory Committee. The Letter "AR" designates Regulated Use classifications permitted upon approval of an Administrative Regulated Use Permit issued by the City Planner, pursuant to Article 36 Section 3606. The letter "V" designates uses that are considered to be visitor severing uses. The "*" designates use classifications that are not permitted.

See Schedule D-1

**Land Use Regulations
“D” Downtown District**

See Schedule D-1

**Land Use Regulations
“D” Downtown District**

See Schedule D-1

**Land Use Regulations
“D” Downtown District**

The following schedule prescribes development regulations and standards for the D District. Where literal interpretation and enforcement of the development regulations and standards result in undue hardship, practical difficulties or consequences inconsistent with the purposes of these regulations and the Redevelopment Plan, the Community Development Commission may grant a variation. A variation shall not be granted which will change the land uses of the Redevelopment Plan ~~for~~ to allow any increase in the maximum height set forth in Additional Development Regulations sub-section (N). Any variation granted with respect to density or intensity of land use, or any variation granted which permits a greater than a 10% reduction in parking requirements above the base development regulations of Article 12 "D" Downtown District shall require a Local Coastal Program Amendment. The Community Development Commission may approve an application for a variation as it was applied for or in modified form as required by the Community Development Commission if, on the basis of the application, plans, materials, and testimony submitted, the Community Development Commission finds:

- 1) The application of certain regulations and/or standards would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Redevelopment Plan.
- 2) There are exceptional circumstances or conditions applicable to the property or to the intended development of the property that do not apply generally to other properties having the same requirements, limits, restrictions, and controls.
- 3) Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area.
- 4) Permitting a variation will not be contrary to the objectives of the Redevelopment Plan.

In permitting any such variation the Community Development Commission shall impose such conditions as are necessary to protect the public health, safety, or welfare, and to assure compliance with the purposes of the Redevelopment Plan.

1231 Transit Oriented Development

The downtown core commercial area is designated a Transit Overlay District (TOD). The location, design, configuration, and mix of uses in the TOD provides an alternative to traditional development by emphasizing a pedestrian-oriented environment and reinforcing the use of public transportation. The TOD's mixed-use clustering of land uses within a pedestrian-friendly area connected to transit, provides for growth with minimum environmental costs.

The core Downtown's underlying commercial use designation and proximity to the Oceanside Transit Center provide a unique opportunity to create a pedestrian-oriented environment. The establishment of such an area is to encourage a mix of commercial retail, professional office and residential uses which will encourage an efficient pattern of development that supports alternative modes of travel.

Mixed-use projects within the TOD require a Mixed-Use Development Plan. TODs represent a land use strategy, which seeks to strike a balance between resolving today's critical transportation issues and allowing freedom of movement and choice of travel mode. Although focused on reinforcing transit, the mixed-use and walkable neighborhoods developed should equally support carpools, bus, biking, walking, and more efficient auto use.

Quality of design will be evaluated upon the basis of the projects ability to incorporate specific amenities that encourage alternate travel modes (i.e. bike lockers/racks, employee locker rooms/showers, preferred car/van pool parking). Parking reductions will be considered for those mixed-use projects which can demonstrate a varied peak parking demand for each use by time of day and/or day of the week (see Section (W) 4 and 5.

DOWNTOWN DISTRICT PROPERTY DEVELOPMENT REGULATIONS 1232

	Basic Requirements	Additional Regulations
Residential Development		(II)(JJ)(KK)
Base Density:		(C)(D)
Site Area Per Unit (sq. ft.)	1,500	
<u>Maximum Potential Density:</u>		(C)(D)
Site Area Per Unit (sq. ft.)	1,000	
Minimum Lot Area (sq. ft.)	5,000	(A)(B)(E)
Minimum Lot Width (ft.)	50	(E)
<u>Minimum Setbacks:</u>		(E)(G)(L)
Front (ft.)	10	(H)(K)
Side (ft.)	3' for lots 75' wide or less except where courts are required; 10' from one side-lot line for lots greater than 75' wide or as required for courts.	
Corner Side (ft.)	10	(H)(J)(K)
Rear (ft.)	5; and as required for courts	(I)(K)
Maximum Height of Structures (ft.)	35	(M)(N)(O)

D District Property Development Regulations (continued)

	Basic Requirements	Additional Regulations
Signs	See Article 33	(GG)
Public Access to the Beach		(HH)
Minimum Site Landscaping	25%	(P)(Q) (R)(S)
Vehicular Access:		
Maximum Driveway Width (ft.)	24	(X)(Y)
Private Outdoor Living Space	Minimum 48 sq. ft. required with minimum dimension 6 feet	(FF)
Courts Required		(EE)
Required Facade Modulation	25% of front and side street elevation horizontal and/or vertical must be set back at least 5 feet from setback line	(T)(U)
Parking	See Article 31	(W)
Fences and Walls (ft.)	Maximum height of 6'	(Z)(AA)(BB)
Refuse Storage Areas	See Section 3022	
Underground Utilities	See Section 3023	
Nonconforming Structures	See Article 35	

D District Property Development Regulations (continued)

	Basic Requirements	Additional Regulations
Nonresidential Development		(II)(KK)
Minimum Lot Area (sq. ft.)	5,000	(A)(B)
Minimum Lot Width (ft.)	50	
Minimum Setbacks:		
Front (ft.)	10	(H)
Side (ft.)	0	(H)(I)
Corner Side (ft.)	10	(H)(J)
Rear (ft.)	0	(H)(I)
Maximum Height (ft.) of Structures	45	(M)(N)(O)
Maximum Floor Area Ratio	2	(F)
Minimum Site Landscaping	15%	(P)(Q)(S)
Fences and Walls (ft.)	8'	(Z)(AA)(BB)
Public Access to the Beach		(HH)
Off-Street Parking and Loading		(V)
Signs	See Article 33	(GG)
Outdoor Facilities	See Section 3020	(CC)
Employee Eating Areas		(DD)
Screening of Mechanical Equipment	See Section 3021	
Refuse Storage Areas	See Section 3022	
Underground Utilities	See Section 3023	
Performance Standards	See Section 3024	
Nonconforming Structures	See Article 35	

**D DOWNTOWN DISTRICT:
Additional Development Regulations**

- (A) The provisions of Section 3013: Development on Substandard Lots shall apply except that in the D District mergers of lots under common ownership shall not be required for purposes of compliance with this ordinance.
- (B) See Section 3014: Uncertainty of Boundaries.
- (C) The maximum density for Subdistrict 5A is one dwelling unit per 1,500 square feet of site area.
- (D) 1. The Land Use Plan would allow for a maximum of 29 to 43 units per acre. The base of 29 units per acre shall be considered the appropriate density for development within each residential land use designation. The base density may be increased from 29 units per acre to 33 units per acre if an underground parking structure that is 50% or more below grade is used in a residential project to provide all of the required parking. All residential projects that do not have an underground parking structure shall have a maximum density of 29 units per acre.
2. Residential projects located within Subdistrict 8B may request a waiver, through the conditional use permit process, to the requirement that all required parking be contained in an underground parking structure. Such projects within Subdistrict 8B may achieve density up to 43 dwelling units per acre provided the project possesses the excellence of design criteria and characteristics described in Section B below. Residential projects with density below the base densities shall be considered to be consistent with the land use designation.
3. Residential projects using an underground parking structure which is 50% or more below finish grade to provide 75% of the required parking, and which possess an excellence of design features, shall be granted the ability to achieve densities above the base density of 29 or 33 units per acre if underground garage is provided, up to the maximum density of 43 units per acre upon approval of a Conditional Use Permit.
- (a) Residential projects on lots 5,000 square feet or smaller may achieve densities above 29 units per acre without providing an underground parking structure, upon approval of a Conditional Use Permit.
- (b) Projects located on The Strand may achieve densities above 29 units per acre without providing an underground parking structure upon approval of a Conditional Use Permit.
4. Project characteristics that exceed standards established by City policy and those established by existing or approved developments in the surrounding area will be favorably considered in the review of acceptable density within the range. Such characteristics include, but are not limited to the following:

- a) Infrastructure improvements beyond what is necessary to serve the project and its population.
- b) Lot standards (i.e. lot area, width depth, etc.) which exceed the minimum standards established by City policy.
- c) Development standards (i.e. parking, setbacks, lot coverage, etc.) which exceed the standards established by City policy.
- d) Superior architectural design and materials.
- e) Superior landscape/hardscape design and materials.
- f) Superior recreation facilities or other amenities.
- g) Superior private and/or semi-private open space areas.
- h) Floor areas that exceed the norm established by existing or approved development in the surrounding area.
- i) Consolidation of existing legal lots to provide unified site design.
- j) Initiation of residential development in areas where nonconforming commercial or industrial uses are still predominant.
- k) Participation in the City's Redevelopment, Housing or Historical Preservation programs.
- l) Innovative design and/or construction methods, which further the goals of the General Plan.

The effectiveness of such design features and characteristics in contributing to the overall quality of a project shall be used to establish the density above base density. No one factor shall be considered sufficient to permit a project to achieve the maximum potential density of a residential land use designation.

- (E) Lots within Subdistricts 5 may be subdivided upon the approval of the Community Development Commission (pursuant to the Subdivision Map Act and the Subdivision Ordinance), provided that each lot thus created is 2,500 square feet or more in area and 25 feet or more in width, and has vehicular access to a public or private alley. Lots within Subdistrict 9 which front on Tremont or Freeman Streets and total 30,000 square feet or more of contiguous area, in a single or multiple ownership, may also be subdivided upon the approval of the Commission with the same provisions as within Subdistrict 5.

One dwelling unit may be located on each subdivided lot provided that each lot meets the yard, density and occupancy requirements of a standard lot with the following exceptions:

- (1) Vehicular access to enclosed garages shall be provided from the public or private alley.
- (2) Courts shall be provided opposite one interior property line which shall be a minimum depth of 8 feet from a window of a habitable room and a minimum width

of 16 feet and shall be open to the sky, except for balconies 3 ft. in width and less, provided that eaves may project 2 feet into a court.

- (F) The floor area ratio for sites 30,000 square feet up to 175,000 of gross site area shall not exceed 3.0. The floor area ratio for sites greater than 175,000 square feet of gross site area shall not exceed 4.0. The floor area ratio may be distributed over the gross area of the entire site. Any residential portion shall not exceed 43 dwelling units per acre (du.ac).
- (G) The provisions of Section 3015: Building Projections into Required Yards and Courts apply except that in the D District, covered porches and stairs may project only 3 feet into the front or rear yard and 2 feet into the side yard.
- (H) Along Mission Avenue and North Coast Highway, setbacks shall be as follows:
 - (1) Lots fronting Mission Avenue: 50 feet from street centerline;
 - (2) Lots fronting North Coast Highway Street: 45 feet from street centerline.
 - (3) Front yard setbacks on commercial projects within Subdistrict 1, 1A and 2 alternate setbacks are allowed upon Community Development Commission approval.
- (I) A 5-foot side or rear yard setback shall be provided along all alleys. A 10-foot side or rear yard shall adjoin any residential area, and structures shall not intercept a 1:1 or 45-degree daylight plane inclined inward from a height of 12 feet above existing grade at the R district boundary line.
 - (1) Projects located on The Strand shall be allowed to encroach into the side yard setback, as long as a minimum 3-foot setback is maintained, with Community Development Commission approval.
- (J) The corner side yard setback may be reduced to 5 feet provided that the landscaping or structures within the setback do not exceed a height of 30 inches and conforms to sight distance requirements on a case by case basis upon approval by the Community Development Commission.
- (K) Parking structures shall not encroach upon setback areas unless it is entirely underground.
- (L) Proposals for front yard, side yard or rear yard setbacks will be judged on the merits of each individual proposal and the architectural compatibility of all proposed structures with existing or proposed structures on adjoining parcels. Functional site layout with special attention to design of recreational, parking and landscaped areas may produce an acceptable proposal with minimum or no setbacks. However, all projects seaward of or fronting on Pacific Street shall retain a minimum 5-foot front yard setback. Owners of abutting property shall be provided written notice of proposals for no setback on side and rear yards at least 10 days prior to Community Development Commission approval.

Buildings along The Strand shall be designed so that when viewed from the beach, the visual impact of the bulk of the structure is minimized to the maximum extent possible.

The Community Development Commission shall approve or conditionally approve such proposals upon finding that:

1. Allowing reduced or no setbacks is compatible with surrounding development;
2. Granting reduced setbacks or eliminating setbacks entirely will enhance the potential for superior urban design in comparison with development, which complies with the setback requirements;
3. The granting of reduced or no setbacks is justified by compensating benefits of the project plan; and
4. The plan containing reduced or no setbacks includes adequate provisions for utilities, services, and emergency-vehicle access; and public service demands will not exceed the capacity of existing and planned systems.

Permitted uses within the 100 year floodplain shall be limited to open space, passive recreational uses, public parks, limited horticulture, floriculture, uses permitted within sensitive habitat areas pursuant to the City's certified "Standards for the Identification and Protection of Sensitive Habitats" and private commercial recreational uses. Provided soil placement does not exceed a maximum level of 3

Feet existing grade and that such placement does not adversely impact the flood-plain hydrology of the San Luis Rey River as defined and evaluated by the Army Corps of Engineers, the following development may be permitted in the 100 year flood-plain:

Bicycle and pedestrian paths, landscape, fencing, hardscape, waterscape, pools, tennis courts, putting greens, volleyball courts, basketball courts, driving range, shuffle board courts, horse shoes, lawn bowling, gazebos and arbors.

Within the first 50 feet of the required 100 foot wetland buffer zone only transitional upland non-invasive vegetation shall be permitted. Within the second 50 feet of said buffer zone only landscape, hardscape, fencing and pathways for bicycles/pedestrians may be permitted.

All floodplain development shall be capable of withstanding periodic flooding without the construction of flood-protective work. Existing environmentally sensitive habitat area will not be adversely affected. There will be no increase in the peak runoff rate from the developed site as compared to the discharge that would be expected once every ten (10) years during a six (6) hour period. There will be no significant adverse water quality impacts and no downstream bank erosion or sedimentation may result from site improvements. All development shall be reviewed for conformance with the policies and standards of the certified San Luis Rey River Specific Plan.

- (M) Height is to be measured from the existing grade, unless otherwise specified.
- a) Existing Grade: The surface of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project as regulated by Section 1240.
 - b) Street Grade: The top of the curb, or the top of the edge of the pavement or traveled way where no curb exists.
- (N) (1) Additional limitations on heights shall apply as follows:

- (a) The Strand: No building shall exceed the present elevation of Pacific Street as defined at the time of passage of Proposition A, passed on April 13, 1982, and set forth in the Proposition A Strand Survey dated May 9, 1986.
 - (b) Subdistrict 4B: Nonresidential structures along Pacific Street shall be the lesser of three stories or 35 feet.
 - (c) Within Subdistrict 5A residential structures above 27 feet, but below 35 feet in height, are allowed upon approval of a Conditional Use Permit.
 - (d) Within Subdistrict 2 mixed use structures above 65-feet, up to 90-feet in height, are allowed upon approval of a Conditional Use Permit.
 - (e) "Within Subdistrict 5 the area located on the west side of North Pacific Street between Surfrider Way and Breakwater Way the maximum height shall be limited to two-stories or 27-feet whichever is less. The exceptions to height limitations provided by Section 3018 shall not apply to any development within this area.
- (2) Additional height may be approved with a Conditional Use Permit on a case-by-case basis for:
- (a) All nonresidential uses except as otherwise noted in this section.
 - (b) Master plan mixed use projects located within Subdistricts 1 and 12, if the Commission finds superior design results incorporating the following design standards and regulations:
 - i Site coverage requirement - Maximum coverage of 60% based on entire gross acreage of Master Site Plan.
 - ii Additional setbacks at the corners of the center block (bounded by Pacific, Mission, Myers and Third Streets) shall be required to create plazas. A minimum dimension of 15 feet shall be required. Minimum encroachments may include landscaping, outdoor seating, street furniture, and art displays.
 - iii A pedestrian promenade shall be required adjacent to development on Pacific Street.
 - iv Public Space Amenity - A minimum of 30% of the entire Master Site Plan area shall be for public or semi-public uses for recreational purposes. Such space shall have minimum dimensions of 15 feet. Paved areas devoted to streets, driveways and parking areas may not be counted toward this requirement. A maximum of 15 % may be enclosed recreation space such as gyms, health clubs, handball/racquetball courts, cultural institutions, meeting/conference

facilities or similar facilities. A fee may be imposed for the use of such facilities.

- v View Corridor Preservation - View corridors shall be preserved through staggered building envelopes or breezeway requirements. Cross block consolidations shall be required to preserve view corridors by permitting only minimal encroachments into existing right-of-ways. Permitted encroachments may include but not be limited to landscaping, food/ sundries kiosks and street furniture.
- vi Maximum Density/Intensity - The maximum intensity of development shall be regulated by Floor Area Ratio (FAR) for Subdistrict 12. The FAR shall apply to the entire Master Site Plan area. FAR shall be calculated on gross acreage of the entire Master Site Plan area. The maximum FAR for Subdistrict 12 shall be 4.0.
- vii Maximum Height - 140 feet. Mid-rise towers shall be oriented with their long axis parallel to the ocean sight line and the east-west streets may only permit minimal encroachments so as to open up and maximize the view corridors. Upper floors of towers shall be of varying heights and stepped back or architecturally fenestrated creating plane breaks in the roof or parapet treatment to add interest to the skyline profile.
- viii Mid-rise tower facades shall feature multifaceted plane breaks and horizontal cornice and frieze elements, which will diminish the perception of mass and create interesting daytime shadow play and nocturnal lighting effects. Towers shall rise from a horizontally articulated building base to bring human scale to the street level pedestrian activity. Additional human scale elements shall include but not be limited to protruding balconies, colorful awnings, fenestration, iron railings, etc..
- ix Only those uses which are transient residential/visitor serving accommodations in nature shall be permitted to achieve the maximum height of 140 feet and only 30% of the Master Site Plan may achieve this maximum height.
- x All other uses permitted within these subdistricts may not exceed a maximum height of 90 feet, and only 30% of the Master Site Plan may achieve the mid-height of 90 feet.

- xi All other structures in these subdistricts (the remaining 40% of the Master Site Plan) may not exceed a height of 45 feet.
- (c) In Sub Districts 7A and 7B, the maximum height limit shall be 45', except that a height limit of up to 65' may be permitted within an approved master plan where the total building floor coverage (footprint) of the development does not exceed more than 35% of the total developable area of the master plan, and the following criteria are met:
- i The architectural elevations shall vary in height along any road or street, especially along Hill Street.
 - ii Roof lines shall be pitched with flat roof lines allowed only for intermittent visual relief in character.
 - iii The maximum achievable elevation shall not extend for the entire roof line of the given building. (The use of jogs, offsets, height differentiations and other architectural features shall be used to reduce the appearance of a constant roof height.)
 - iv The use of a full roof, not flat, with appropriate pitch, shall be used whenever possible. (A full roof aids in the reducing any environmental noise pollution by providing proper sound attenuation.)
 - v In no case shall a building elevation exceed 45 feet in height unless developed under the auspices of a Disposition and Development Agreement, Owner Participation Agreement, Development Agreement or Conditional Use Permit (CUP). In such case, each such Agreement or CUP shall require a site plan and design criteria approval by the CDC.
 - vi No structure within 50' of the 100 Year Flood-plain boundary shall exceed 45' in height.
- (d) Residential projects east of the AT&SF railroad right-of-way.
- (e) In addition to the FAR standard required for commercial and mixed use development, the following shall be the maximum height limit per district:

<u>Subdistrict</u>	<u>Maximum Height</u>
1	140 feet
1A	45 feet
2	65 feet
3	65 feet
4A	Restricted by bluff height
4B	35 feet
5	35 feet west of AT&SF 45 feet east of AT&SF
5A	27 feet
6A	65 feet
6B	65 feet
6C & 6D	Pursuant to Harbor Precise Plan
7A	65 feet
7B	65 feet
8A	65 feet
8B	65 feet
9	45 feet
10	San Luis Rey River/Not Applicable
11	35 feet
12	140 feet
13	90 feet
14	45 feet
15	Beach/Strand Park/Restricted by bluff height"

- (f) In Subdistrict 6A and 6B provisions i - vi of herein above Section 6(2)(c) shall apply.
- (O) See Section 3018: Exceptions to Height Limits. All height exceptions, omitting those allowed under Section 3018, require approval by the Community Development Commission.
- (P) Planting Areas. All visible portions of a required setback area adjoining a street shall be planting area or hardscape that includes driveways, walks, parking areas, as well as areas covered by ornamental gravel, crushed rock, or similar materials. However, the front yard setback may not be entirely paved out or composed of hardscape material.
- (Q) See Section 3019: Landscaping, Irrigation and Hydroseeding.
- (R) The minimum site landscaping shall be provided on the lot surface; plantings on roofs, porches or in planting boxes which are above the lot surface shall not qualify as landscaping, except for landscaping located directly above underground parking which is 50% or more below grade. Hardscape does not qualify as landscaping except that, areas devoted to common patios, pools and other recreational facilities may be included in determining compliance with the landscaping requirement. In addition, for projects of four or fewer units, private outdoor living space can be used to satisfy up to 10 percent of the minimum site landscaping requirement. Residential projects located on The Strand may count 30% of

the required landscaping on roof tops toward their landscaping requirement, providing such landscaping or appurtenances or other architectural features (such as guard rails) do not exceed the present elevation of Pacific Street as defined at the time of passage of Proposition A, passed April 13, 1982, and set forth in the Proposition A Strand Survey dated May 9, 1986.

(S) Landscaping Requirements:

- (1) For residential projects only located on The Strand is 20%.
- (2) Within Subdistricts 1, 2, 9, and 12 landscaping may be reduced (for commercial development only) provided that the developer contributes a fee to provide art work for the proposed project upon approval by the Community Development Commission. The percentage of landscaping to be reduced as well as the amount of the fee will be determined by the Community Development Commission.

(T) The parking structures that are 50% or more below grade, the required facade modulation shall only be applicable to the facade area above the parking structure.

(U) Buildings 50' wide or smaller in width may reduce the amount of facade modulation per Community Development Commission approval. For buildings located on The Strand, alternative facade modulations, either reduced amounts or horizontal modulation may be provided with Community Development Commission approval.

(V) See Article 31: Off-Street Parking and Loading Regulations.

(W) The following parking standards and regulations apply specifically to the D District. If there is a conflict with Article 31, the following parking standards shall apply:

1. All parking shall be in an enclosed garage. Up to 25 percent may be in a semi-enclosure with Community Development Commission approval.
2. Tandem Parking:
 - (a) Tandem Parking may be allowed with—a Conditional Use Permit for property located on The Strand.
 - (b) For projects located outside of The Strand area but within the Redevelopment Project Area, tandem parking shall be allowed for parcels 33 feet wide or less with a Conditional Use Permit.
 - (c) When tandem parking is permitted, parking spaces are assigned to a single unit. Each parking space shall be numbered/lettered. Each unit shall be assigned a specific space or spaces. Each unit whose unit number/letter appears on the corresponding space(s) shall have an exclusive easement for parking purposes over that designated parking space.

3. Visitor parking spaces are required in projects with 25 or more units at a ratio of one additional space per five units above 25 units.
 4. Within the Transit Overlay District the number of on-street parking spaces available on the contiguous street frontage of the site may be counted toward the total number of parking spaces required for a non-residential Mixed Use Development Plan.
 5. Non-residential Mixed Use Development Plans within the Transit Overlay District may receive a mixed-use parking requirement reduction of up to 25% based upon all of the following criteria: a) proximity to the Oceanside Transit Center, b) demonstrated varied peak demand for parking, and c) project amenities which encourage alternate travel modes.
- (X) Any vehicular access over 24 feet in width requires Community Development Commission approval.
- (Y) On corner lots or lots with double frontages, vehicular access shall be provided from the secondary street or alley.
- (Z) Fences within front yard setback areas are limited to 42 inches in height. Residential fences over 6 feet in height require a variation or a variance. Nonresidential fences over 8 feet in height require a variation or a variance (See Section 3040).
- (AA) A 6-foot solid masonry or concrete wall shall adjoin the property line of the site of a new ground-floor residential use abutting an existing nonresidential use or the property line of a new nonresidential use abutting the site of an existing ground-floor residential use. However, no wall shall be required where the portion of the site within 10 feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line.
- (BB) All fences, walls and fencing attachments (such as, but not limited to, barbed wire or razor wire) within the Redevelopment Project Area requires Planning Division Redevelopment Department approval prior to installation. The Planning Division's Redevelopment Department's decision may be appealed to the Community Development Commission.
- (CC) See Section 3025: Antennas and Microwave Equipment and Section 3027: Recycling facilities.
- (DD) Outdoor eating facilities for employees shall be provided for all office buildings that contain more than 20,000 square feet if no public park is within 1,000 feet. See Section 3028: Employee Eating Areas.
- (EE) Courts Opposite Windows, Multifamily Units.
- Courts shall be provided for all multifamily development as follows:
- (1) Courts Opposite Walls on the Same Site: The minimum depth shall be one-half the height of the opposite wall but not less than 16 feet opposite a living room and 10 feet opposite a required window of any habitable room.

- (2) Courts Opposite Interior Property Line: The minimum depth of a court for a required window of a habitable room shall be 6 feet, measured from the property line.
- (3) Court Dimensions: Courts shall be a minimum of 16 feet wide and shall be open to sky except for balconies 3 ft. in width and less, provided that eaves may project 2 feet into a court.

(FF) Open Space.

- (1) Basic Requirement. Total open space on a site having three or more dwelling units shall be at least 200 square feet per dwelling unit.
- (2) Private Outdoor Living Space. Private outdoor living space shall be on patios or balconies within which a horizontal rectangle has no dimension less than 6 feet.
- (3) Shared Open Space. Shared open space, provided by non-street side yards, patios and terraces, shall be designed so that a horizontal rectangle inscribed within it has no dimension less than 10 feet, shall be open to the sky, and shall not include driveways or parking areas, or area required for front or street side yards.
- (4) Parkland Dedication. All multifamily housing projects shall be subject to the parkland dedication requirements of Chapter 32, Subdivisions, of the City Code because apartments contribute to increased demand for community and neighborhood parks in the same manner as condominiums, cooperatives, and single-family housing. The applicant shall dedicate land or pay a fee, or a combination of dedication and fee as provided by Chapter 32, Article IV of the City Code, and the credit for improvement and private open space under Section 32.50 of the City Code shall apply, if warranted. The fees shall be calculated according to a schedule adopted by the City Council by resolution and shall be payable at the time a building permit is issued.

(GG) The Sign Standards for the Downtown Oceanside Redevelopment Project Area adopted by the Oceanside Community Development Commission and the Harbor Design Standards adopted by the Oceanside Harbor Board of Directors pertaining to signs shall apply where they are more restrictive than Article 33 of the Oceanside Zoning Ordinance.

(HH) In Subdistricts 4A and 15, permanent facilities shall be provided for pedestrian access from the nearest public streets on the bluff top to the public beach. Between Ninth Street and Wisconsin Avenue, such access shall be provided on the average of every 800 feet, but in no event will there be fewer than seven such pedestrian routes. Between Ninth Street and Wisconsin Avenue, no fewer than four permanent facilities shall be provided for vehicular access from the nearest public street on the bluff top to the beach.

(II) Development within Subdistricts 6(C) and 6(D) shall be subject to the Harbor Design Standards.

- (JJ) The Property Development Regulations (Section 1230) for residential uses shall apply to all exclusively residential projects within commercially oriented subdistricts.
- (KK) Any mixed-use development with commercial and residential land uses combined requires a Mixed-Use Development Plan approved in accordance to the following requirements, to establish the property development regulations for the project. Base District Regulations and Property Development Regulations for Residential and Nonresidential land uses shall serve as the guideline for a mixed-use project. Height shall be regulated by the maximum height allowed in the Subdistrict as set forth in Additional Development Regulations sub-section (N). In no case shall these maximum heights be exceeded. Any deviations from the development regulations shall be evaluated based upon the merits of the development plan. Any deviation granted which permits a greater than 10% reduction in parking requirements above the base development regulations of Article 12 "D" Downtown District shall also require a Local Coastal Program Amendment.

Purpose:

The Mixed-Use Development Plan is intended to provide flexibility in land use regulations and site development standards under control of the Planning Commission and the Community Development Commission where flexibility will enhance the potential for superior urban design.

Initiation:

A mixed-use development may be initiated by filing an application for a Mixed Use Development Plan that complies with the requirements of this subsection (KK).

Required plans and materials:

1. A Mixed-Use Development Plan consisting of a map and textual materials as may be necessary to delineate land uses and locations, existing and projected building types and schematic designs, height and FAR including any proposals for transfer of FAR, site development requirements, existing and proposed open space, circulation, on-site and off-site parking, and any other pertinent information.
2. A comparison between underlying district regulations and standards and any proposed modifications to these regulations and standards, together with resulting impacts on traffic-carrying capacity of affected streets.
3. A statement of the reasons for any requested modifications to regulations or standards and a description of proposed means of mitigating any adverse effects.

The Community Development Commission shall hold a duly noticed public hearing on the application in accord with the provisions of Article 45. Following the hearing, the Commission may recommend approval of the Development Plan with conditions if it implements the purpose of the Mixed-Use Development Plan. The following findings shall be made by the Community Development Commission:

1. For the residential portion of the project, the total number of dwelling units in the Mixed-Use Development Plan does not exceed the maximum number permitted by the General Plan density of 43 dwelling units per acre. Any plan that would exceed the base density of 29 dwelling units per acre may be approved only if the Community Development Commission finds that the plan conforms to the provisions of Section 1230 of this Ordinance (in particular, Additional Regulation "CC").
2. That the Mixed-Use Development Plan will enhance the potential for superior urban design in comparison with development under the regulations that exist if the Development Plan were not approved;
3. That the Mixed-Use Development Plan is consistent with the adopted Land Use Element of the Redevelopment Plan and other applicable policies, and that it is compatible with development in the area it will directly affect;
4. That the Mixed-Use Development Plan includes adequate provisions for utilities, services, and emergency access, and public service demands will not exceed the capacity of existing systems;
5. That the traffic expected to be generated by development in accord with the Mixed-Use Development Plan will not exceed the capacity of affected streets; and
6. That the Mixed-Use Development Plan will not significantly increase shading of adjacent land in comparison with shading from development under regulations that would exist if the Mixed-Use Development Plan were not approved.

1234 Reception Antennas and Co-User Facilities: Purpose and Siting Criteria

A. Purposes. This section is intended to promote and provide for the following:

1. To establish a zoning permit and land use review process consistent with the City's Telecommunication Policies and which accommodate the public's ability to access communication, broadcast and subscription services which are transmitted through the global atmospheric radio-frequency spectrum.
2. To maintain certain aesthetic values and land use compatibility through a land use review process for certain types of these facilities that may have potential impact upon public welfare.

3. To regulate the siting of telecommunications facilities so as to comply with the limitations, constraints and policies set forth in relevant federal and state telecommunications law.

B. Reception Antennas: Siting Criteria. A reception antenna is permitted on any structure if it complies with each of the following criteria:

1. Maximum Number. The maximum number of reception antennas is limited two per structure.
2. Minimum Setbacks.
 - (a) Interior side and rear property line – 10 feet.
 - (b) Corner-side property line – zoning district standard.
 - (c) Reception antennas may not be installed within the front yard setback area of the underlying zoning district.
3. Maximum Size.
 - (a) Roof-mounted antenna – 4 feet diameter for dish type and 60 cubic feet for skeletal-type.
 - (b) Ground-mounted – 5 feet diameter for dish type and 60 cubic feet for skeletal-type.
4. Maximum Height.
 - (a) Roof-mounted –
 1. Skeletal-type antennas -1- feet above the district height limit.
 2. Dish mounted – no higher than the principal or predominant roof-line of the structure.
 - (b) Ground Mounted – 12 feet above grade.

Additional height may be authorized through an administrative conditional use permit by the Redevelopment Director in accordance with the provisions of Article 41.

5. Surface Materials and Finishes. Reflective surfaces are prohibited.
6. Screening: The structural base of a ground-mounted antenna, including all bracing and appurtenances, but excluding the antenna itself, shall be screened from the views from neighboring properties by walls, fences, buildings,

landscape or combinations thereof not less than 5 feet high.

7. Cable Undergrounding: All wires and cables necessary for operation of the antenna and its reception shall be placed underground, except for wires or cables attached to the exterior surface of a structure.

C. Communication Facilities. Siting Criteria. Communication facilities may be installed and operated within any zoning district subject to the following categorical standards and processes:

1. Minor Co-User Communication Facilities. Co-User facilities consisting of a limited number of whip or pole antennas and monitoring antennas shall be allowed subject to the following limitations:

- (a) Antenna Type. Permitted antennas are limited to pole and monitoring antennas.

- (b) Maximum Number.

1. Pole Antennas – one per 1,000 square feet of roof area up to a maximum of 5 antennas.

2. Monitoring Antennas - one per every permitted communication facility.

- (c) Maximum Height.

1. Pole Antennas 10 feet above height of a building or co-user facility.

2. Monitoring Antennas- 1- foot above height of co-user facility.

- (d) Maximum Antenna Size.

1. Pole Antenna – 4 inches in diameter.

2. Monitoring Antenna – 1 cubic foot.

Appearance: Antennas must be colored or painted to blend with the predominant background features (e.g., building, landscape, sky).

Administrative Conditional Use Permit Requirement: Major Co-User Communication Facilities and within the coastal zone, Minor Co-User Facilities.

In accordance with the requirements specified within Article 41 of the Ordinance, the ~~Redevelopment Director~~ **City Planner** may approve the siting, development and operation of a Major or Minor Co-User Communication Facility through an administrative process. The ~~Redevelopment Director's~~ **City Planner's** decision may be appealed to the

Community Development Commission. A permit issued pursuant to this section shall be subject to the requirements set forth in Subsection 3 (A-F) below:

Standard Conditions of Approval. The following standard conditions of approval shall apply to all Minor and Major Co-User Communication Facilities:

- (a) The Conditional Use Permit shall be limited to a term of 5 years. However, the CUP may be renewed in accordance with the provisions of the Zoning Ordinance.
- (b) Upon one year of facility operation, and upon any change-out of facility equipment, the permittee(s) shall provide to the Redevelopment Director a statement of radio-frequency radiation output and output compliance with the limitation of governing licensing authorities.
- (c) The permittee(s) shall exercise a good-faith effort to incorporate the best available equipment technology to effect a reduction in the visual presence of the approved antenna and facility equipment. The change-out and retro-fit of equipment shall be conducted by the permittee(s) after such equipment becomes available and exhibits common use at similar facilities. Upon the City's request and discretion, the permittee (s) shall be required to provide an independently prepared technical analysis demonstrating compliance with this condition. The permittee (s) inability to demonstrate the use of current technologies may be grounds for the revocation of the CUP.
- (d) The permittee (s) shall exercise a good-faith effort to cooperate with other communication providers and services in the operation of a co-user facility provided such shared usage does not impair the operation of the approved use. Upon the City's request and discretion, the permittee (s) shall provide an independently prepared technical analysis to substantiate the existence of any practical technical prohibitions against the operation of a co-use facility. The permittee(s) non-compliance with this requirement may be grounds for the revocation of the CUP.
- (e) The approved communication facility shall be subject to, and governed by, any and all licensing authority by any governmental agency having jurisdiction. The City's local approval of a communication facility shall not exempt the permittee(s) from any such pre-emptive regulations.
- (f) The approved facility shall address the appearance of the entire site and shall upgrade or repair physical features as a means of minimizing view impacts to the community. Such techniques shall include, but shall not be limited to, site landscaping, architectural treatments, painting, and other methods to minimize visual impacts to the public streetscape.

1235 Nonconforming Commercial Structures

Notwithstanding the provisions of Article 35, a nonconforming commercial building located in a commercial zoning district within the Redevelopment Project Area, which is destroyed to an extent of more than fifty percent (50%) of its replacement value at the time of its destruction by fire, explosion, or other casualty or Act of God, or the public enemy, may be restored to its original density, height, or configuration subject to all other provisions of this Article, provided that such nonconformities are not increased in intensity, and that there is no reduction in the amount of off-street parking which had existed on site prior to such destruction. The use of the rebuilt structure shall be subject to all current zoning use regulations in existence at the time of destruction. Existing uses operating under a conditional use permit, which is in compliance with the existing zoning regulations at the time of destruction, shall not be required to obtain a new use permit. Exterior appearance and facade plans for the rebuilding of nonconforming commercial structures shall be subject to review by the ~~Redevelopment~~ **Downtown** Design Review Committee and approval by the Community Development Commission. (For Residential Nonconforming Buildings See Article 35 Section 3510)

1240 Review of Plans

Certain projects shall require concept plan review in accordance with Article 42 of this Ordinance. All new development projects with the exception of single family residences shall require development plan review in accordance with Article 43. All development plans shall be reviewed by the Redevelopment Staff and by any other City department or division or governmental agency designated by the ~~Redevelopment Director~~ **City Planner**.

Alterations of existing structures, not within Subdistrict 1A or in a Historic Overlay District, are exempt from development plan review unless the alteration adds the following:

- a) 10% or more of additional square footage to an existing structure or;
- b) adds more than 500 square feet to an existing structure.

Such alterations shall be considered to be major alterations and require development plan review. The Community Development Commission shall approve, conditionally approve, or disapprove development plans for all projects within the designated Redevelopment Project Area.

Development plans for projects in Subdistrict 1A or in an HD Historic Overlay District shall be reviewed by the Historical Preservation Advisory Commission (OHPAC). The proposed demolition of a designated historical site shall also be reviewed by OHPAC and approved, conditionally approved, or denied by the Community Development Commission.

In regards to the Development Plans within the Oceanside Small-Craft Harbor, Planning Commission recommendations shall be made to the Harbor Chief Executive Officer for processing and action in accordance with Article 43.

All discretionary actions within the Downtown District shall require Community Development Commission review, unless otherwise specified in this Ordinance. The

Planning Director or Planning Commission shall recommend to the Harbor Chief Executive Officer, approval, conditional approval, or denial of discretionary requests.

The Community Development Commission's, or the Harbor Board of Director's, consideration of discretionary actions shall be through a noticed public hearing if the action requested requires such a public hearing. Where a noticed public hearing is required, the Community Development Commission's review of the discretionary action shall also be through a public hearing. All decisions made by the Community Development Commission and Harbor Board of Directors shall be final.

1250 Amendments

Any amendments to Article 12 of this Ordinance that affect properties within the established California Coastal Zone shall be approved by the California Coastal Commission.

Land Use Regulations

"D" Downtown District

P - Permitted U - CUP C - Admin CUP AR - Admin Regulated Use Permit * - Not Permitted
V - Visitor Serving Uses

Subdistrict	1	1A	2	3	4A	4B	5	5A	6A	6B	6C	7A	7B	8A	8B	9	10	11	12	13	14	15
Residential																						
Day Care - Ltd	C	C	C	C	*	*	*	*	*	*	*	*	C	C	C	C	*	*	*	*	*	*
Group Residential	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	*	*	*	*	*
Live/work	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	*	*	*	*
Multi - Family	U	U	*	U	P	U	P	P	*	U	*	P	U	U	U	U	*	U	*	U	*	*
Residential Care	*	*	*	U	*	*	*	*	*	*	*	U	*	U	U	U	*	*	*	*	*	*
Single - Family	*	*	*	U	P	*	P	P	*	*	*	P	U	U	U	U	*	*	*	*	*	*
Public/ Semi - Public																						
Club / Lodge	U	U	U	U	*	*	*	*	U	*	U	*	U	*	*	U	*	*	*	*	*	V
Cultural Institution	C	C	C	C	*	*	*	*	C	*	*	U	U	U	U	U	*	*	C	U	*	V
Day Care - General	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	*	C	C	C	C	C
Emergency Health Care	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	U	*	*	*	*	*	*
Government Offices	P	P	P	P	*	*	*	*	P	*	U	*	*	*	*	P	*	*	U	U	U	P
Hospital	*	*	*	*	*	*	*	*	*	*	*	*	*	P	P	*	*	*	*	*	*	*
Parks & Recreation Facility	U	U	*	U	U	*	U	U	P	P	P	U	U	U	U	U	U	*	U	U	C	V
Public Safety Facility	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	P
Religious Assembly	*	*	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Residential Care - General	*	*	*	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	*	*	*	*
Utilities - Major	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U
Utilities - Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial																						
Adult Businesses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Ambulance Service	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	*	*	*	*	*
Animal product sales	C	C	*	C	*	*	C	*	*	*	C	*	C	*	*	C	*	*	*	*	*	*
Artist Studio	C	C	*	*	*	*	*	*	*	*	*	*	*	*	*	C	*	C	*	*	*	V
Bank / Savings & Loan	P	P	P	P	*	*	*	*	*	*	*	*	U	*	*	P	*	*	*	*	*	*
Drive-through/drive up	U	U	U	U	*	*	*	*	*	*	*	U	*	*	U	*	*	*	*	*	*	V
Self-service ATM	C	C	C	C	*	*	*	*	*	*	*	C	*	*	C	*	*	*	*	*	*	V
Catering Service	C	C	C	*	*	*	*	*	*	*	*	*	*	*	*	C	*	*	*	*	*	*
Commercial Recreation & Entertainment	U	*	U	*	*	*	*	*	U	U	U	*	U	*	*	U	U	*	U	*	*	V
Communication Facility	U	U	U	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	U	*	*
Major Co-User	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U
Minor Co-User	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U
Reception Antennas	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Restaurants Full Service	P	P	P	*	P	*	*	*	P	P	P	*	P	P	*	P	P	P	P	P	P	V
Restaurant Full Service with Full Alcohol	P	P	P	*	P	*	*	*	P	P	P	*	P	P	*	P	P	P	P	P	P	V

Schedule D - 1
Land Use Regulations
"D" Downtown District

P - Permitted U - CUP C - Admin CUP AR - Admin Regulated Use Permit * - Not Permitted
V - Visitor Serving Uses

Subdistrict	1	1A	2	3	4A	4B	5	5A	6A	6B	6C	7A	7B	8A	8B	9	10	11	12	13	14	15		
Restaurants Full Service with Live Entertainment	P	P	P	*	P	*	*	*	P	P	P		P	P	*	P	P	P	P	P	P	P	V	
Restaurants Fast food	P	P	P	*	P	*	*	*	P	P	P	*	P	P	*	P	P	P	P	P	P	P	V	
Restaurants Fast Food with Drive-thru or Drive-up	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*	*	*	*		
Food and Beverage Kiosk	*	*	*	*	*	*	*	*	P	*	*	*	*	*	*	*	*	*	*	*	*	*		
Food & Beverage Sales	C	C	C	*	C	*	C	*	C	C	C	*	C	*	*	*	*	C	C	C	C	C		
Convenience Market	U	U	U	*	U	*	U	*	U	U	U	*	U	*	*	*	*	U	U	U	U			
Grocery/Neighborhood Market store greater than 8,000 sq. ft.	U	U	U	*	U	*	U	*	U	U	U	*	U	*	*	*	*	U	U	U	U	*	V	
Grocery/Neighborhood Market store less than 8,000 sq. ft.	C	C	C	*	C	*	C	*	C	C	C	*	C	*	*	*	*	C	C	C	C	*	V	
Specialty Market	P	P	P	*	P	*	P	*	P	P	P	*	P	*	*	*	*	P	P	P	P	*	V	
Home Occupation	P	P	*	P	P	P	P	P	*	P	*	P	P	*	P	P	*	P	*	P	*	*		
Marine Sales, Rentals, and Services	*	*	*	*	*	*	*	*	P	P	P	*	U	*	*	*	*	*	*	*	*	*		
Offices	P	P	P	P	*	*	*	*	U	U	*	*	P	U	U	P	*	P	C	P	P	*		
Administrative/Business	P	P	P	P	*	*	*	*	U	U	*	*	P	U	U	P	*	P	C	P	P	*		
Production	P	P	P	P	*	*	*	*	U	U	*	*	P	U	U	P	*	P	C	P	P	*		
Professional	P	P	P	P	*	*	*	*	U	U	*	*	P	U	U	P	*	P	C	P	P	*		
Temporary	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	*		
Temporary Real Estate	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	*		
Pawns shops	C	C	C	*	C	*	*	*	*	C	*	*	*	*	*	*	*	*	*	C	C	C	*	
Personal Improvement Services	C	C	C	*	*	*	*	*	C	C	C	*	C	*	*	*	*	C	C	C	*	*		
Health/Club/Studio/Spa	C	C	C	C	*	*	*	*	C	C	C	*	C	*	*	*	*	C	C	C	*	*		
Day Spa	P	P	P	P	*	*	*	*	P	P	P	*	P	*	*	*	*	P	P	P	*	*	V	
Accessory Massage	U	U	U	U	*	*	*	*	U	U	U	*	U	*	*	*	*	U	U	U	*	*	V	
Personal Services	C	C	C	C	*	*	*	*	C	C	C	*	C	*	*	*	*	C	C	C	*	*		
Laundromat/Café	U	U	U	U	*	*	*	*	*	*	*	*	*	*	*	U	*	U	*	*	*	*	V	
General Repair	P	P	P	P	*	*	*	*	*	*	*	*	*	*	*	P	*	P	*	*	*	*		
Tattooing Establishments	A R	*	A R	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*		
Retail Sales	P	P	P	*	P	*	*	*	P	C	P	*	P	C	C	P	*	P	C	C	P	C	V	
Antiques, Antique Shop	P	P	P	*	P	*	*	*	P	C	P	*	P	C	C	P	*	P	C	C	P	*	V	
Custom Retail	C	C	C	*	C	*	*	*	P	C	*	*	*	*	*	*	*	*	C	C	*	*	V	
Secondhand Collectibles and Clothing Sales	P	P	P	*	P	*	*	*	P	C	P	*	P	C	C	P	*	P	C	C	P	*	V	
Wine Tasting	U	U	U	*	U	*	*	*	P	U	U	*	U	*	*	U	U	U	U	U	U	*	V	
Travel Services	P	P	P	P	*	*	*	*	P	P	*	*	P	*	U	P	*	U	P	C	C	*	V	
Automotive Rental (small scale)	*	*	*	*	*	*	*	*	C	C	*	*	C	*	*	C	*	*	C	C	*	*	V	

**Land Use Regulations
"D" Downtown District**

P - Permitted U - CUP C - Admin CUP AR - Admin Regulated Use Permit * - Not Permitted
V - Visitor Serving Uses

Subdistrict	1	1A	2	3	4A	4B	5	5A	6A	6B	6C	7A	7B	8A	8B	9	10	11	12	13	14	15	
Visitor Accommodations																							
Bed & Breakfast	*	*	*	*	U	U	U	U	U	U	U	*	*	*	*	*	*	*	U	U	*	*	V
Hotel / Motel / Timeshare	U	U	U	*	U	U	U	*	U	U	U	*	U	*	*	U	*	*	U	U	*	*	V
Resort	U	U	U	*	U	U	U	*	U	U	U	*	U	*	*	U	*	*	U	U	*	*	V
Fractional Ownership Hotel	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	U	U	*	*	V
Condominium Hotel	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	V
Limited Use Overnight Visitor Accommodation	U	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	*	*	*	V