

CALIFORNIA COASTAL COMMISSION

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Th14a

LCP-6-SAN-22-0023-1 (2020 Land Development Code Update)

September 2023

EXHIBITS

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EXHIBIT 1: Strikeout/Underline Ordinance

EXHIBIT 2: BIA/TPA Map

EXHIBIT 3: Executive Director memorandum on AB 2097

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-21288 (NEW SERIES)

DATE OF FINAL PASSAGE FEBRUARY 1, 2021

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 26.0716; AMENDING CHAPTER 9, ARTICLE 8, DIVISION 2 BY AMENDING SECTION 98.0202; AMENDING CHAPTER 9, ARTICLE 8, DIVISION 6 BY AMENDING SECTION 98.0610; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 3 BY AMENDING SECTION 112.0310; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 112.0520; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 113.0103; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2 BY AMENDING SECTIONS 113.0234 AND 113.0270; AMENDING CHAPTER 12, ARTICLE 3, DIVISION 4 BY AMENDING SECTION 123.0402; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTION 131.0322; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTIONS 131.0422, 131.0431, 131.0445, AND 131.0446; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522, 131.0540, AND 131.0543; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 7 BY AMENDING SECTION 131.0707; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 141.0103; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 141.0309 AND 141.0312; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 141.0421; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY ADDING NEW SECTION 141.0627; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4 BY AMENDING SECTIONS 142.0402, 142.0403, 142.0405, 142.0406, 142.0407, 142.0408, 142.0409, 142.0410, 142.0411, 142.0412, AND 142.0413; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY



AMENDING SECTIONS 142.0510 AND 142.0530; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY AMENDING SECTION 142.0640; AMENDING CHAPTER 14 ARTICLE 2, DIVISION 12 BY AMENDING SECTION 142.1235; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 143.0126; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 4 BY AMENDING SECTION 143.0450; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTION 143.0740; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103; AMENDING CHAPTER 15, ARTICLE 4, DIVISION 4 BY AMENDING SECTION 154.0405; AMENDING CHAPTER 15, ARTICLE 5, DIVISION 2 BY AMENDING SECTIONS 155.0251 AND 155.0253; AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTIONS 156.0302, 156.0305, 156.0307, 156.0308, 156.0309, 156.0310, 156.0311, 156.0313, 156.0314, AND 156.0315; AMENDING CHAPTER 15, ARTICLE 7, DIVISION 2 BY AMENDING SECTION 157.0201; AMENDING CHAPTER 15, ARTICLE 7, DIVISION 3 BY AMENDING SECTION 157.0305; AMENDING CHAPTER 15, ARTICLE 7, DIVISION 4 BY AMENDING SECTION 157.0401, RELATING TO THE 2020 SAN DIEGO LAND DEVELOPMENT CODE/MUNICIPAL CODE UPDATE.

§26.0716 Compliance with Civic Enhancement Allocation Regulations

- (a) If the *applicant* chooses to pay an in-lieu fee to the City's *Public Art Fund* in accordance with ~~the provisions of~~ section 26.0714(b)(3), ~~no building permit for the *development* may be issued without payment of the in-lieu fee to the City's *Public Art Fund*~~ the in-lieu fee shall be paid at the time required building permit fees are paid and no later than the first inspection of the *development* performed by the City.

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

§98.0202 Mobilehomes, Recreational Vehicles and Commercial Coaches Located Outside Licensed Mobilehome and Special Occupancy Parks— Special Permit— Fee

- (a) No person shall use or occupy any mobilehome, commercial coach or recreational vehicle on private property not licensed as a mobilehome park or special occupancy park except as follows:

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

(6) For residential uses authorized by Neighborhood Development Permit and Site Development Permit regulations pursuant to Sections 126.0402(e) and 126.0502(b).

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

§98.0610 Payment of Housing Impact Fee

- (a) Except as provided elsewhere in this section, the applicable Housing Impact Fee shall be paid at the time required building permit fees are paid and no later than the first inspection of the Nonresidential Development Project performed by the City ~~no Building Permit shall be issued for construction of, or interior remodel of, any Nonresidential Development Project subject to this Division unless and until the Housing Impact Fee provided for in this Division is paid to the City.~~ The amount of the Housing Impact Fee shall be determined as follows, in accordance with the fee schedule set forth in Appendix A in effect on the date the project application is deemed complete, ~~upon the issuance of a Building Permit or payment of the Housing Impact Fee, whichever occurs later, as follows:~~
- Gross Square Feet Nonresidential Space X (Applicable Fee by type of use

as determined by the Mayor or his or her designee by application of
APPENDIX A to this Division) = Housing Payment. For purposes of this
Division, the Housing Impact Fee for an interior remodel shall be the fees
for the new use, less any fees that either were paid or would have been
paid based on the existing use of the building.

(b) [No change in text.]

§112.0310 Notice of Right to Appeal Environmental Determination

In accordance with Chapter 12, Article 8, Division 2, the Planning Director
implements the California Environmental Quality Act (CEQA) and the State
CEQA Guidelines within the City of San Diego. While not required by CEQA, in
some circumstances the City requires the posting of a Notice of Right to Appeal
Environmental Determination for activities that are subject to CEQA.

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

(d) A Notice of Right to Appeal Environmental Determination shall be posted
on the City's website on the date of the *environmental determination* ~~as~~
~~follows:~~

~~(1) At the City of San Diego, Development Services Department in a
location easily accessible to the public; and~~

~~(2) On the City of San Diego's website.~~

(e) [No change in text.]

(f) A Notice of Right to Appeal Environmental Determination posted in
accordance with Section 112.0310(d) shall remain posted ~~for 10 business~~
~~days.~~ as follows:

- (1) For an *environmental determination* that involves a *development permit, tentative map*, or other discretionary action pursuant to the Land Development Code, for 10 *business days*;
- (2) For an *environmental determination* that does not involve a *development permit, tentative map*, or other discretionary action pursuant to the Land Development Code, for 5 *business days*.

§112.0520 Environmental Determination Appeals

- (a) [No change in text.]
- (b) Time for Filing an Appeal

An application to appeal an *environmental determination* shall be filed ~~in the Office of~~ with the City Clerk as follows:

- (1) Within 10 *business days* for *environmental determinations* that involve a *development permit, tentative map*, or other discretionary action pursuant to the Land Development Code and within 5 *business days* for *environmental determinations* that do not involve a *development permit, tentative map*, or other discretionary action pursuant to the Land Development Code, from the date of the posting of the Notice of Right to Appeal Environmental Determination; or
- (2) [No change in text.]
- (c) Scheduling Appeal Hearings. The appeal hearing before the City Council shall be held no later than 60 calendar days after the date on which the application for an appeal is filed, unless there are more than 60 calendar

days until the next regularly scheduled City Council meeting, or unless the Council President determines that the item cannot be heard within the 60 calendar days, in which case the appeal hearing shall be held at the first regularly scheduled City Council meeting after the 60 calendar days have passed or when the Council President determines that the item can be heard. Failure to hold the hearing within the 60 calendar days shall not limit the authority of the City Council to consider the appeal. The appeal hearing shall be noticed in accordance with Section 112.0308.

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

(g) The appeal and any appeal hearings of an *environmental determination* that a project is not subject to the California Environmental Quality Act pursuant to California Public Resources Code Section 21080(b)(2)-(4) because it is an emergency action shall occur in accordance with Section 112.0520. The emergency action may proceed during the pending of the appeal period and any later appeal hearings.

§113.0103 Definitions

Abutting property through Accessory use [No change in text.]

Adult day care facilities means a facility that operates on a less than 24-hour basis and may provide medical care or personal care services to persons 18 years or older, including supervision or an organized day program of therapeutic, social, and health activities, and may serve persons with either physical or mental functional impairments.

Advertising display sign through Permit holder [No change in text.]

Placemaking means the temporary use of *public right-of-way* and private property that activates streetscapes by enhancing the pedestrian experience and providing neighborhood-serving activities, experiences, or spaces and includes temporary, small-scale *development* specifically designed to support that temporary use.

Projects that may qualify as *placemaking* uses include, but are not limited to, those that provide areas for pedestrians to briefly rest (*e.g.*, plazas, shade structures, and benches), promote the use of underutilized space (*e.g.*, landscaping and decorative lighting), ~~and~~ improve and promote pedestrian activity and other uses of the public *right-of-way* (*e.g.*, bicycle racks and refuse containers), and activate property parking areas in a transit priority area (*e.g.*, outdoor dining).

Planned Urbanized Communities through Yard [No change in text.]

§113.0234 Calculating Gross Floor Area

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

(a) Elements Included in *Gross Floor Area* for Development in All Zones

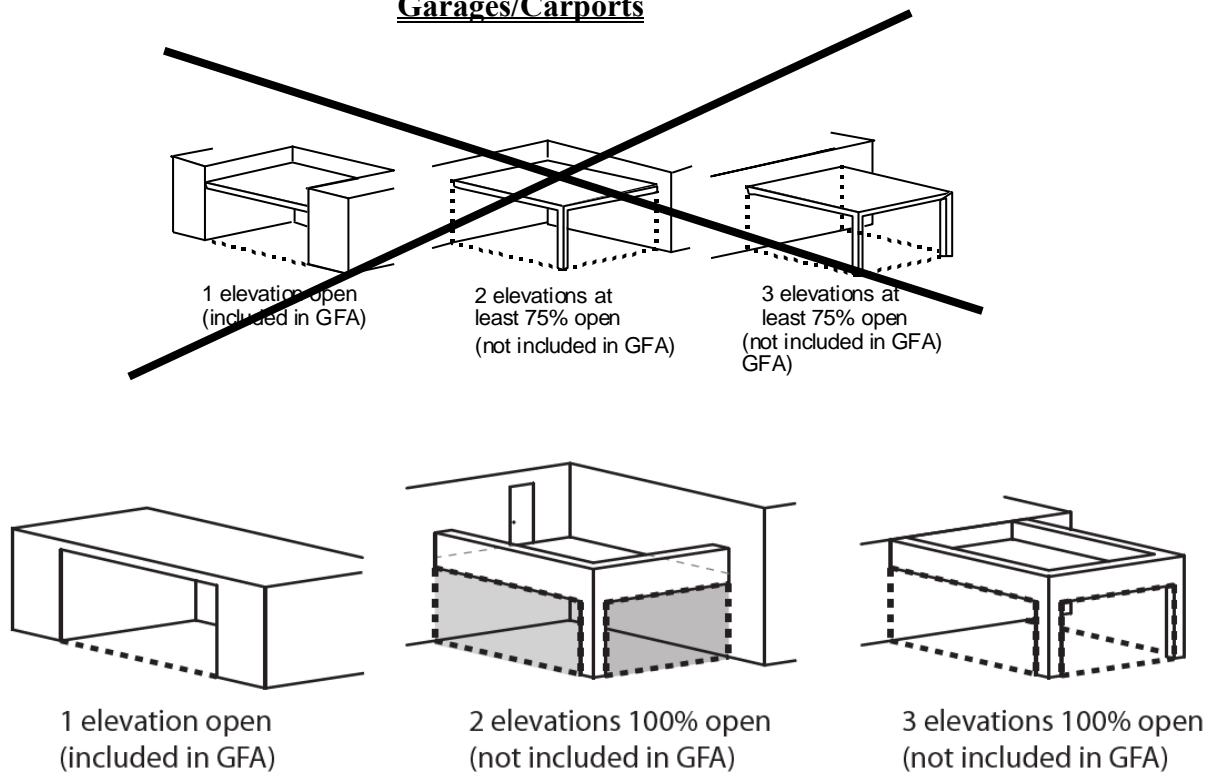
(1) through (5) [No change in text.]

(6) *Gross floor area* includes on- or above-grade parking *structures*, garages, and carports that are constructed and maintained with less than two elevations of the element that are ~~at least 75~~ 100 percent

completely open, measured from the finish-floor to the bottom of the floor or roof elevation immediately above, except for the support columns with maximum dimensions of 18 inches by 18 inches in plan view, as shown in Diagram 113-02M, and except where the parking *structure* design meets the exemptions identified in Section 113.0234(d)(3).

Diagram 113-02M

Garages/Carports



(7) [No change in text.]

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

§113.0270 Measuring Structure Height

(a) *Structure Height* of Buildings and *Structures* (Excluding *Fences*,
Retaining Walls, or *Signs*)

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

(4) Special Circumstances

(A) [No change in text.]

(B) Measuring *Structure Height* for Subterranean Areas

(i) [No change in text.]

(ii) Exterior Subterranean Areas. The overall *structure height* measurement shall not include subterranean vehicular access, exterior subterranean pedestrian access, light wells of less than 5 feet from the building wall, or ventilation to a *basement*. Overall *structure height* shall instead be measured from an imaginary plane connecting to the lowest *adjacent grade* immediately above the exterior subterranean space, as shown in Diagram 113-0200.

Diagram 113-0200

Access and Ventilation to Basement

[No change in text.]

(C) [No change in text.]

(D) *Structure Height* of Buildings subject to Coastal Height

Limit in accordance with Section 132.0505.

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

(iii) *Structure height* of buildings subject to the Coastal Height Limit shall also comply with the zoning

height ~~measurement calculations for plumb line in~~
Section 113.0270(a)(2)(A) and overall height in
Section 113.0270(a)(2)(B) requirements measured
in accordance with this Division.

(5) [No change in text.]

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

§123.0402 When a Temporary Use Permit Is Required

A Temporary Use Permit is required for the following uses:

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

(e) Temporary storage containers located within the *public right-of-way*.

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

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

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

(d) Notwithstanding Sections 129.0710(a)-(c), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for *placemaking* or a recreational amenity in the *public right-of-way*; subject to the following regulations. For purposes of Section 129.0710, a recreational amenity is defined as any improvement that provides

recreational value to residents or visitors and that enhances the pedestrian or bicycle travel experience. subject to the following regulations:

- (1) *Applicants* proposing a *placemaking* or recreational amenity project in the *public right-of-way* shall demonstrate to the satisfaction of the City Manager that the project constitutes a lawful use of the *public right-of-way*.
- (2) [No change in text.]
- (3) If the *placemaking* or recreational amenity project includes the temporary removal of one or more parking spaces to accommodate the project, the City Manager may approve the temporary removal as part of the Public Right-of-Way Permit only in accordance with the procedures described in Municipal Code section 86.0104, except that compliance with the Angle Parking Standards shall not be required unless otherwise applicable, ~~and that, in no case shall the City Manager approve temporary removal of parking for a *placemaking* project that results in temporary removal of parking on that segment of the street in excess of 25 percent of the total number of parking spaces available within that segment.~~
- (4) The term of the Public Right-of-Way Permit shall not exceed five years with the exception of *placemaking* and recreational amenities. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751.

Placemaking and recreational amenities shall be removed in accordance with the Encroachment Maintenance and Removal Agreement required in Section 129.0715. ~~At the expiration of the term, the *placemaking* project shall be removed and the *permit holder* shall return the *public right-of-way* property to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Public Right-of-Way Permit is obtained prior to its expiration.~~

- (5) The *permit holder* shall be responsible for maintaining the *placemaking or recreational amenity* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking or recreational amenity* project in a location visible from the *public right-of-way*, keeping the *placemaking or recreational amenity* project area free of litter, and preventing litter attributable to the *placemaking or recreational amenity* project from occurring on adjacent properties.
- (6) A *placemaking or recreational amenity* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.
- (7) The *placemaking or recreational amenity* project shall not occur in an Industrial Base Zone or a Residential-Single Unit (RS) Zone.

- (8) The *placemaking or recreational amenity* project shall not include commercial services, retail, or assembly and entertainment uses as *accessory uses*. If a *placemaking* project or recreational amenity is located within 15 feet of a permitted eating and drinking establishment and is located on a City street with a posted speed limit no greater than 30 miles per hour, the establishment may conduct outdoor dining operations within the *placemaking* project or recreational amenity. The hours of operation of the outdoor operations shall be limited to the hours that the *kitchen* facilities of the associated eating and drinking establishment are open for meal ordering. Alcohol, food, or beverages shall not be served or permitted within the *placemaking* or recreational amenity area after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday through Saturday.
- (9) The *placemaking or recreational amenity* project shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of-way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.
- (10) In the Coastal Overlay Zone, an *applicant* for a *placemaking or recreational amenity* project in the *public right-of-way* shall obtain a Coastal Development Permit pursuant to Section 126.0702.

§131.0222 Use Regulations Table for Open Space Zones

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

Legend for Table 131-02B

[No change in text.]

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

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones					
	1st & 2nd >>	OP-		OC-		OR ⁽¹⁾ -	
	3rd >>	1-	2-	1-	1-	1-	
	4th >>	1	1	1	1	2	1
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]					
Separately Regulated Commercial Services Uses							
<u>Adult Day Care Facility</u>		<u>L</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>=</u>	
Adult Entertainment Establishments: through <i>Signs</i> , Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]					

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

§131.0322 Use Regulations Table for Agricultural Zones

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

Legend for Table 131-03B

[No change in text.]

Table 131-03B
Use Regulations Table for Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones	
	1st & 2nd >>	AG	AR
	3rd >>	1-	1-

	4th >>	1	2	1	2
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]			
Separately Regulated Commercial Services Uses					
<u>Adult Day Care Facility</u>		=		<u>L</u>	
Adult Entertainment Establishments: through Signs , Separately Regulated Signs Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]			

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

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B

[No change in text.]

Table 131-04B
Use Regulations Table for Residential Zones

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-			2-			3-			4-		5-
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]											
Separately Regulated Commercial Services Uses													
<u>Adult Day Care Facility</u>		<u> </u>			<u> </u>			<u> </u>			<u> </u>		<u> </u>
Adult Entertainment Establishments: through Signs , Separately Regulated Signs Uses , Theater <i>Marquees</i> [No change in text.]		[No change in text.]											

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

§131.0431 Development Regulations Table for Residential Zones

The following development regulations apply in the residential zones as shown in Tables 131-04C, 131-04D, 131-04E, 131-04F, and 131-04G.

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

(e) RM Zones

Table 131-04G
Development Regulations for RM Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones					
	1st & 2nd >>	RM-					
	3rd >>	1-	1-	1-	2-	2-	2-
	4th >>	1	2	3	4	5	6
Maximum permitted density^{(1),(2)} (sf per DU) through Max lot coverage [No change in text.]	[No change in text.]						
Max floor area ratio	0.75	0.90 ⁽¹⁹⁾	1.05 ⁽¹⁹⁾	1.20 ^{(19),(29)}	1.35 ⁽¹⁹⁾	1.50 ⁽¹⁹⁾	
Accessory uses and structures [See Section 131.0448] through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]						

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones					
	1st & 2nd >>	RM					
	3rd >>	3-	3-	3-	4-	4-	5
	4th >>	7	8	9	10	11	12
Maximum permitted density^{(1),(2)} (sf per DU) through Max structure height (ft) [No change in text.]	[No change in text.]						
Max lot coverage	- <u>7,000</u>	- <u>7,000</u>	- <u>7,000</u>	applies ⁽²¹⁾	applies ⁽²¹⁾	applies ⁽³⁴⁾	
Max floor area ratio	1.80 ⁽²⁰⁾	2.25 ⁽²⁰⁾	2.70 ⁽²⁰⁾	3.60 ⁽²⁰⁾	7.20 ⁽²⁰⁾	1.80 ^{(20),(35)}	
Accessory uses and structures [See Section 131.0448] through Visibility Area [See Section 113.0273] [No change in text.]	[No change in text.]						

Footnotes for Table 131-04G

- ¹ through ¹⁸ [No change in text.]
- ¹⁹ ~~See Section 131.0446(e).~~
- ²⁰ ~~See Section 131.0446(f).~~
- ²¹ ~~See Section 131.0445(e).~~
- ²² See Section 131.0455(a).
- ²³ See Section 131.0455(b).
- ²⁴ See Section 131.0455(c).
- ²⁵ See Section 131.0455(d).
- ²⁶ See Section 131.0464(d).
- ²⁷ See Section 131.0464(e).
- ²⁸ See Section 131.0464(f).
- ²⁹ With the Peninsula and Ocean Beach community plan areas, the maximum *floor area ratio* is 0.70.
- ³⁰ See Section 131.0443(h)(1).
- ³¹ See Section 131.0443(h)(2).
- ³² See Section 131.0443(h)(3).
- ³³ See Section 131.0443(h)(4).
- ³⁴ See Section 131.0445(d)(c).
- ³⁵ See Section 131.0446(e)(c).
- ³⁶ Within the La Jolla, Pacific Beach, and Torrey Pines community plan areas, the maximum permitted *density* is one dwelling unit or two *guest rooms* for each 1,500 square feet of lot area.
- ³⁷ Within the Coastal Height Limit Overlay Zone in the Peninsula Community Plan area, the base zone maximum *structure height* shall be 30 feet, which shall be determined in accordance with Section 113.0270(a)(4)(D).

§131.0445 Lot Coverage in Residential Zones

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

~~(e)~~ In the RM-4-10 and RM-4-11 zones, maximum *lot coverage* is 50 percent for interior *lots* and 60 percent for corner *lots*.

~~(d)~~(c) In the RM-5-12 zone, maximum *lot coverage* is 50 percent for interior *lots* and 60 percent for corner *lots*, except that maximum *lot coverage* for any *premises* that has a building exceeding 4 *stories* or 48 feet in *height* shall be reduced in accordance with Table 131-04I.

Table 131-04I

Lot Coverage in RM-5-12 Zone

[No change in text.]

§131.0446 Maximum Floor Area Ratio in Residential Zones

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

- (e) ~~In the RM-1-2, RM-1-3, RM-2-4, RM-2-5, and RM-2-6 zones, a minimum of one-fourth of the permitted *floor area ratio* shall be reserved for required parking. The maximum *floor area ratio* for all *structures* on the *premises*, excluding underground parking *structures*, shall not exceed the maximum permitted *floor area ratio* for the zone as identified in Table 131-04G, except that a *floor area ratio* bonus shall be provided equal to the *gross floor area* of the underground parking *structure*.~~
- (f) ~~In the RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, excluding *development* using the Affordable Housing Regulations in Chapter 14, Article 3, Division 7, a minimum of one-third of the permitted *floor area ratio* shall be reserved for required parking. The maximum *floor area ratio* for all *structures* on the *premises*, excluding underground parking *structures*, shall not exceed the maximum permitted *floor area ratio* for the zone as identified in Table 131-04G, except that a *floor area ratio* bonus shall be provided equal to the *gross floor area* of the underground parking *structure*.~~
- (g)(e) In the RM-5-12 zone, the maximum permitted *floor area ratio* for buildings exceeding 4 *stories* or 48 feet of *structure height* shall be increased in accordance with Table 131-04K.

Table 131-04K

Floor Area Ratio in the RM-5-12 Zone

[No change in text.]

§131.0522 Use Regulations Table for Commercial Zones

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

Legend for Table 131-05B

[No change in text.]

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																			
	1st & 2nd >>	CN ⁽¹⁾ -						CR-		CO-						CV-		CP-			
	3rd >>	1-						1-	2-	1-	2-		3-		1-	1-					
	4th >>	1	2	3	4	5	6	1	1	1	2	1	2	1	2	3	1	2	1		
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]																			
Separately Regulated Commercial Services Uses																					
<u>Adult Day Care Facility</u>		<u>L</u>						<u>L</u>		=		<u>L</u>		=		<u>L</u>		<u>L</u>		=	
Adult Entertainment Establishments: through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																			

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																								
	1st & 2nd >>	CC-																								
	3rd >>	1-			2-			3-			4-			5-												
	4th >>	1	2	3	1	2	3	4	5	4	5	6	7	8	9	1	2	3	4	5	6	1	2	3	4	5
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]																								
Separately Regulated Commercial Services Uses																										
Adult Day Care Facility		L			=			L			L			L												
Adult Entertainment Establishments: through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]																								

Footnotes for Table 131-05B [No change in text.]

§131.0540 Maximum Permitted Residential Density and Other Residential Regulations

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

- (a) through (c) [No change in text.]
- (d) Residential *Development*. Where residential *development* is permitted, the development regulations of the RM-1-1, RM-2-5, RM-3-7, RM-3-8, RM-3-9, and RM-4-10 zones apply as appropriate according to the maximum permitted residential *density*, except that the *lot* area, *lot* dimensions, *setback*, *floor area ratio*, and *structure height* requirements of the applicable commercial zone apply. ~~The *floor area ratio* bonus for providing underground parking as set forth in Sections 131.0446(e) and 131.0446(f) shall apply.~~
- (e) [No change in text.]

§131.0543 Setback Requirements for Commercial Zones

Setback requirements are specified in Tables 131-05C, 131-05D, and 131-05E and are subject to the following exceptions and additional regulations:

- (a) [No change in text.]
- (b) Minimum Side and Rear *Setback*
 - (1) In zones that require a 10-foot minimum side or rear *setback* and provide the option for ~~no~~ a zero-foot side or rear *setbacks* as shown in Tables 131-05C, 131-05D, and 131-05E, the *structure* shall ~~either be placed at anywhere in between the property line or shall be set back at least 10 feet~~ and the minimum 10-foot setback.

(2) [No change in text.]

(c) [No change in text.]

§131.0622 Use Regulations Table for Industrial Zones

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

Legend for Table 131-06B

[No change in text.]

**Table 131-06B
Use Regulations Table for Industrial Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd> >	IP-			IL-			IH-		IS-	IBT-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-	1-
	4th >>	1	1	1	1	1	1	1	1	1	1
Open Space through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]									
Separately Regulated Commercial Services Uses											
<u>Adult Day Care Facility</u>		=	<u>L</u>	<u>L</u>	=	<u>L</u>	<u>L</u>	=	=	<u>L</u>	=
Adult Entertainment Establishments; through Signs, Separately Regulated Signs Uses, Theater <i>Marquees</i> [No change in text.]		[No change in text.]									

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

§131.0707 Use Regulations Table for Mixed-Use Zones

The uses allowed in the mixed-use zones are shown in Table 131-07A.

Legend for Table 131-07A

[No change in text.]

Table 131-07A
Use Regulations Table for Mixed-Use Zones

Use Categories/Subcategories	Zone Designator	Zones					
	1st >>	RMX			EMX		
	2nd >>	1	2	3	1	2	3
Open Space through Institutional, Separately Regulated Institutional Uses, <i>Wireless communication facility</i> outside the <i>public right-of-way</i> [No change in text.]		[No change in text.]					
Retail Sales							
Building Supplies & Equipment		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Food, Beverages and Groceries		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Consumer Goods, Furniture, Appliances, Equipment		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Pets & Pet Supplies		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Sundries, Pharmaceutical, & Convenience Sales		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Wearing Apparel & Accessories		P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾	P ⁽⁸⁾
Separately Regulated Retail Sales Uses through Commercial Services, Visitor Accommodations [No change in text.]		[No change in text.]					
Separately Regulated Commercial Services Uses							
<u><i>Adult Day Care Facility</i></u>		<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>
Adult Entertainment Establishments; through Signs, Separately Regulated Signs Uses, Theater Marquees [No change in text.]		[No change in text.]					

Footnotes for Table 131-07A¹ through ⁷ [No change in text.]⁸ Development of a large retail establishment is subject to Section 143.0302.

§141.0103 Applicable Regulations for Separately Regulated Uses

- (a) Except as specifically provided in this ~~a~~Article, separately regulated uses are subject to the following regulations unless a variance has been approved in accordance with Chapter 12, Article 6, Division 8:
 - (1) through (3) [No change in text.]
- (b) [No change in text.]

§141.0309 Interim Ground Floor Residential

Residential *development* within commercial zones is permitted only when a commercial *structure* exists on the *premises* or is a part of the proposed *development*. Residential use is restricted on the ground *floor* in accordance with Section 131.0540. Interim ground *floor residential* may be permitted within existing commercial space in accordance with Process Two in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

- ~~(a)~~ (a) ~~The applicant shall provide evidence to the decision maker that the development site is within a commercial space that has been vacant for more than six consecutive months.~~
- ~~(b)~~ (a) The change of a *development* site from commercial to residential use shall be in compliance with the California Building Code and California Fire Code for the residential use at the time of the conversion.
- ~~(c)~~ (b) The Neighborhood Use Permit shall expire no later than 10 years from the date of issuance.
- ~~(d)~~ (c) No additional parking is required for interim ground *floor* residential use.

~~(e)~~(d) The decision maker shall make the findings in Section 126.0205(a)
through (d).

§141.0312 Residential Care Facilities

Residential care facilities provide in-house treatment or rehabilitation programs for residents on a 24-hour basis. Residential care facilities include drug and alcohol rehabilitation and recovery facilities and residential and community care facilities as defined by the state or county. ~~Housing for senior citizens, nursing homes, convalescent homes, work furlough and probationary residential facilities, and emergency shelters are not residential care facilities.~~

Residential care facilities for 7 to 12 persons may be permitted with a Conditional Use Permit decided in accordance with Process Three, and residential care facilities for 13 or more persons may be permitted with a Conditional Use Permit decided in accordance with Process Four, in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

§141.0421 *Placemaking on Private Property*

Placemaking on private property is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations:

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

(f) *A placemaking project shall only occur on premises that are vacant at the time the Temporary Use Permit application is submitted or within parking lots on premises within transit priority areas, except in existing disabled accessible parking spaces serving the premises.*

(g) [No change in text.]

(h) *Placemaking on private property in Commercial Base Zones shall also be subject to the following regulations:*

(1) ~~The~~ A placemaking project on premises that are currently vacant shall not include retail or commercial services uses except as *accessory uses* to serve the *placemaking* use, and shall not operate except between the hours of 7:00 a.m. and 10:00 p.m., unless a separate Temporary Use Permit is obtained.

(2) A placemaking project on a premises within a transit priority area that was previously a parking lot of a permitted eating and drinking establishment shall not include retail or commercial services uses except outdoor dining operations associated with the permitted eating and drinking establishment. The hours of operation of the outdoor operations shall be limited to the hours that the kitchen

facilities of the associated eating and drinking establishment are open for meal ordering. Alcohol, food, or beverages shall not be served or permitted within the *placemaking* area after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday through Saturday.

(A) The area for eating and drinking shall be delineated by a barrier consisting of railings, fences, or a combination of railings and fences, and planter boxes that are 3 feet in height or less. Solid walls are not permitted.

(i) The barrier may be either permanently installed or moveable. If it is moveable, it shall be affixed to a sidewalk while the eating and drinking establishment is open for business.

(ii) A clear, transparent, shatterproof glass or similar material may be used on top of the 3-foot barrier to enclose the eating and drinking area to minimize windy or cold climatic conditions. The height of the barrier plus the clear enclosure shall not exceed 5 feet. Barriers adjacent to parking stalls shall include reflective materials.

(iii) Awnings or umbrellas may be used in conjunction with an area for eating and drinking but shall not be

used as a permanent roof or shelter over the area for eating and drinking.

(B) A placemaking area shall be designed and operated so that unsafe conditions are not created for the physically disabled, blind, or partially sighted.

(i) The surface of the placemaking area shall be level and have a running slope and a cross slope that do not exceed 2 percent (1 unit vertical in 50 units horizontal).

(ii) The placemaking area shall not be located on a raised platform or in a sunken area, unless an accessible ramp is provided in accordance with the California Building Code, or the Americans with Disabilities Act, whichever provides greater accessibility.

(iii) At least one wheelchair accessible seating space shall be provided for every 20 seats, or portion thereof.

(iv) When multiple wheelchair accessible seating spaces are provided, they shall be reasonably distributed and integrated within the placemaking area.

(v) Wheelchair accessible seating spaces shall have a minimum unobstructed maneuverability dimension of 30 inches in width by 48 inches in depth.

(vi) Access to designated wheelchair accessible seating spaces shall be provided through an accessible path with not less than 36 inches unobstructed width.

~~(2)~~(3) Commercial Base Zone regulations for *setbacks* and minimum *lot coverage* shall not apply.

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

§141.0627 Adult Day Care Facility

Adult Day Care Facilities are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Table in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) Adult Day Care Facilities are not permitted on sites designated as Prime Industrial Lands in a *land use plan*.

(2) Adult Day Care Facilities are not permitted in agricultural zones in Proposition A Lands.

(3) Adult Day Care Facilities shall comply with all applicable state laws.

(4) Adult Day Care Facilities are not permitted within 1,000 feet of any known business that:

(A) Has or is required to have a permit from the County of San Diego Hazardous Materials Division, excluding underground fuel storage tanks, and handles regulated substances above the Threshold

Quantity as listed in the California Code of Regulations, Title 19

Section 2770.5;

(B) Handles compressed flammable gases in excess of 1,500 pounds.

(5) The 1,000 foot separation distance shall be measured from the *property line of the proposed Adult Day Care Facility* to the use, storage, or handling areas for the regulated substances. Businesses may satisfy the separation requirements on-site. The *Adult Day Care Facility* operator has the burden of proof of demonstrating compliance with the separation requirement.

(6) Within the Coastal Overlay Zone, an *Adult Day Care Facility* shall be permitted only on previously-developed sites that are not developed with open space or agricultural uses as identified in Section 131.0112.

§142.0402 When Landscape Regulations Apply

- (a) [No change in text.]
- (b) Table 142-04A provides the applicable regulations required by this division for the landscaping required in conjunction with the specific types of *development* proposals. Any project that proposes more than one of the types of *development* shown is subject to all of the regulations for each type of *development*.

Table 142-04A
Landscape Regulations Applicability

Type of <i>Development</i> Proposal			Applicable Regulations
Column A	Column B	Column C⁽¹⁾	
1. New <i>structures</i> that equal or exceed the <i>gross floor area</i> shown (Column B), and are proposing the type of <i>development</i> shown (Column C) through 8. Projects creating disturbed areas of a bare soils, or projects with existing disturbed areas [No change in text.]	[No change in text.]	[No change in text.]	[No change in text.]
9. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure <u>structure</u> .			142.0403, 142.0412, <u>and</u> 142.0413
10. Publicly or privately owned <i>premises</i> , that are within 100 feet of a <i>structure</i> , and contain native or naturalized vegetation through 11. New <i>structures</i> , additions to <i>structures</i> , or subdivisions that create <i>lots</i> where new <i>structures</i> could be located on <i>premises</i> adjacent to native or naturalized vegetation [No change in text.]			[No change in text.]
12. New T rees or shrubs planted in the <i>public right-of-way</i>			62.0603, 129.0702, 142.0403, 142.0409, <u>and</u> 142.0610
13. <i>Condominium Conversions</i>			142.0406, 142.0404, 142.0405(b)(1), 142.0409(a), 142.0412, <u>and</u> 142.0413
14. Commercial development with at least 1,000 square feet of landscape area			142.0403 142.0413
15. <u>14.</u> <i>Small Lot Subdivision</i>			142.0403, 142.0404, <u>and</u> 142.0413

Footnote to Table 142-04A [No change in text.]

§142.0403 General Planting and Irrigation Requirements

All planting, irrigation, brush management, and landscape-related improvements required by this division must comply with the regulations in Section 142.0403 and with the Landscape Standards in the Land Development Manual.

(a) [No change in text.]

(b) Plant Material Requirements

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

(6) A minimum root zone of 40 square feet in area shall be provided for all trees.- The minimum dimension for this area shall be 5 feet. This minimum dimension and root zone area may be reduced with the use of structural soil or where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage adjacent improvements.

(7) [No change in text.]

(8) All pruning shall comply with the standards of the ~~National Arborist Association~~ American National Standards Institute (ANSI) for free care operations and the International Society of Arboriculture (ISA) best management practices for free pruning. Topping of trees is prohibited.

(9) Any plant material required by this division that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown

on the approved plan.- Required shrubs that die 3 years or more after installation shall be replaced with 15-gallon size, and required trees that die 3 years or more after installation shall be replaced with 60-inch box size material.- The City Manager may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

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

- (13) Tree root barriers or structural soil shall be installed where trees are placed within 5 feet of *public improvements* including walks, curbs, or *street* pavement or where new ~~public improvements~~ *public improvements* are placed adjacent to existing trees.- The City Manager may waive this requirement where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage ~~public improvements~~ *public improvements*.

(14) through (16) [No change in text.]

- (17) Plant material shall be selected to meet a Maximum Applied Water Allowance (MAWA) as determined by the water budget formula and specifications in Section 142.0413(d).

(c) Irrigation Requirements

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

(3) Irrigation systems shall meet the following design requirements:

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

(C) Irrigation systems shall be designed to minimize system maintenance requirement after installation.- Above-ground irrigation system equipment that is exposed to potential damage shall be designed to be damage-resistant; and

(D) [No change in text.]

(d) [No change in text.]

§142.0405 Additional Yard Planting Area and Point Requirements

(a) [No change in text.]

(b) Additional residential *yard* requirements:

(1) *Street Yard*;

~~(A)~~ Up to 10 percent of the required *street yard* planting area located outside the *vehicular use area* for *multiple dwelling unit* residential *development* may consist of enhanced *hardscape*.

~~(B)~~ ~~Planting area in the public right-of-way is not counted towards fulfillment of the required street yard planting~~

(2) *Remaining Yard*/~~*Common Open Space*~~ Common Open Space

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

~~(C)~~ ~~A minimum distance of 4 feet shall be provided between any tree and building.~~

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

§142.0406 Vehicular Use Area Planting Area and Point Requirements

- (a) When new *vehicular use areas* are subject to this section in accordance with Table 142-04A, the planting area, the plants necessary to achieve the number of plant points, and the trees required in Table 142-04D shall be provided. The required planting area is determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the percentage shown in Table 142-04D.- The required plant points are determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the points shown in the Table 142-04D. The required area, points, and trees shall be located within the *vehicular use area* unless listed otherwise in the table.

**Table 142-04D
Vehicle Use Area Requirements**

Size of Proposed Vehicular Use Area	Planting Area Required ^{(1), (2), (4)}		Plant Points Required ^{(1), (2)}		Tree Distribution Requirement ⁽¹⁾
	<i>Street yard</i>	<i>Outside the street yard</i>	<i>Street yard</i>	<i>Outside the street yard</i>	
Less than 6,000 square feet	40 Square Feet per Tree	40 Square Feet per Tree	0.05 points	0.05 points	1 tree within 30 feet of each parking space ⁽³⁾
6,000 square feet or greater	5% of vehicular use area located in the street yard	3% of vehicular use area located outside the street yard	0.05 points	0.03 points	1 tree within 30 feet of each parking space ⁽³⁾

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

- (b) All planting areas and plants in or adjacent to a *vehicular use area* shall be protected from vehicular damage by providing a raised curb or wheel stop of at least 6 inches in height.- Where the end of parking spaces abut a planting area that is less than 5 feet in width, 6-inch-high wheel stops or curbs shall be placed within the parking spaces, 2 feet from the edge of the planting area.
- (c) A *vehicular use area* located within the *street yard* shall be separated from the curb in the *public right-of-way* by a required planting area totaling at least 8 feet in width, measured perpendicularly to the *public right-of-way*. This planting area shall meet the following requirements:
- (1) [No change in text.]
 - (2) The planting area shall be planted to screen the *vehicular use area* with densely foliated, evergreen species that achieve a minimum height of 30 inches within 2 years of installation over at least 80 percent of the length of the required planting area.- The *screening* may also be achieved through a combination of plant material with the use of berms, solid fencing, or walls, ~~plant material, or any combination of these that provides an equivalent screen.~~
 - (3) The width of this planting area may be reduced to 3 feet if a solid wall of at least 3 feet in height is provided for the entire length of the *vehicular use area*—for sites under 5 acres. Sites that are between 5 and 10 acres are required to provide the planting area buffer that is 8 feet. For sites over 10 acres, a planting area buffer

must be 12 feet in width with a potential reduction to 8 feet with a 3 feet high wall.- The remaining planting area shall be located between the wall and curb within the *public right-of-way* and planted with the equivalent of 1 shrub for every 10 feet of wall length.- These shrubs shall achieve at least 18 inches in height of maturity.

- (4) A point score in excess of that required for a *vehicular use area* may be used to reduce the planting area required for that *vehicular use area* at a rate of one square foot of area reduction for each excess point provided.- The maximum planting area reduction allowed by this section is 25 percent of the total *vehicular use area* required.

§142.0407 Additional Vehicular Use Area Requirements

- (a) [No change in text.]
- (b) For a *vehicular use area* that is less than 6,000 square feet in size, the required plant points may be provided within 5 feet of the edge of the *vehicular use area*.- For a *vehicular use area* 6,000 square feet or greater in size, the required planting area, points, and trees shall be located in the *vehicular use area*. ~~except for areas designated for commercial vehicle parking spaces, loading areas, and loading area accessways that are used for the distribution of materials and goods. They may be located within 5 feet of the edge of the *vehicular use area* designated for these purposes.~~ Planting area, points, and trees may be located within 5 feet of the edge of

the vehicular use areas designated for commercial vehicle parking spaces;
loading areas; loading area accessways used for the distribution of
materials and goods; and areas of a linear configuration made up primarily
of drive aisles.

- (c) ~~The minimum tree size~~ Trees used in a *vehicular use area* shall be canopy
form, evergreen species at a minimum 24-inch box size, ~~or if palm trees~~
~~are used they shall be 8-foot brown trunk height. If palm trees are used to~~
~~meet the vehicular use area tree requirements, a palm tree shall be within~~
~~15 feet of each parking space.~~

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

§142.0408 Temporary Vehicular Use Area Requirements

When new temporary *vehicular use areas* are subject to this Section in accordance with Table 142-04A, the planting requirements of this Section shall apply.

- (a) *Vehicular use areas* that have a specified time limit for discontinuance that is less than 5 years after the date of ~~C~~construction permit issuance are considered temporary *vehicular use areas*.
- (b) Temporary *vehicular use areas* shall provide a 3-foot-wide planting area between the *public right-of-way* and the *vehicular use area*.- This area shall be planted with evergreen shrubs that achieve a minimum height of 30 inches within 2 years of installation over at least 50 percent of the required planting area.- The remaining area shall be covered with mulch. Vehicle access into this planting area shall be prevented by a 6-inch-high

curb or wheel stops placed within the parking spaces, 2 feet from the edge of the planting area.- The planting area may be paved at designated vehicle access points.

- (c) *Vehicular use areas* that do not have a specified time limit for discontinuance or that are proposed to exist more than 5 years after the date of ~~€~~*construction permit* issuance are subject to the requirements for a permanent *vehicular use area* contained in Sections 142.0406 and 142.0407.

§142.0409 Street Tree and Public Right-of-Way Requirements

- (a) Street Tree Requirements

When new *structures*, additions to *structures*, *condominium conversions*, or new *vehicular use areas* are subject to section in accordance with Table 142-04A, street trees within the *parkway* shall be provided in accordance with the following regulations.

- (1) Street Tree Quantity. ~~Street trees shall be planted between the curb and abutting property line.~~

(A) The number of required street trees shall be calculated at the rate of one standard trunk, 24-inch box canopy form tree for every 30 linear feet of *street frontage*, excluding curb cuts and required clearances for designated bus stops.

(B) The installed tree spacing may be varied to accommodate site conditions or design considerations; however, the number of trees required for each *street frontage* on a *lot*

bounded by more than one *street* shall be planted along the corresponding *street frontage*. ~~Where site conditions do not allow the installation of the street trees required by this section in the *parkway*, trees may be located on the private property within 10 feet of the property line along that street frontage.~~

(C) Where palm trees are proposed to satisfy this requirement in accordance with Section 142.0409(a)(3), they shall be planted at a rate of one 10-foot brown trunk height palm for each 20 feet of *street frontage*.

(D) For projects in the IL and IH zones that have loading docks along more than 25 percent of the building *street wall*, the street tree requirement shall be increased to the rate of one 24-inch box tree for every 20 feet of *street frontage* or one 10-foot brown trunk height palm for each 10 feet of *street frontage*.

(2) Street Tree Locations

(A) Street trees shall be planted between the curb and *abutting property line*.

(B) Where site conditions do not allow for the installation of the street trees required by this section in the *parkway*, trees may be located on the private property within 10 feet of the *property line* along that *street frontage*.

~~(A)~~(C) Street trees shall be located 7 feet from the face of curb on *streets* classified in the applicable *land use plan* as major *streets*, primary arterials, or expressways that have a posted speed of 50 miles per hour or greater.- For all other *street* classifications, street trees shall be located no closer than 30 inches to the face of curb or within median islands, no closer than ~~four~~ 4 feet to the face of curb.

(D) Trees shall be selected and located so they do not cause damage or conflict with overhead utility lines at maturity.

~~(B)~~(E) Street trees shall be separated from improvements by the minimum distance shown in Table 142-04E.

Table 142-04E

Minimum Tree Separation Distance

[No change in text.]

Footnote for Table 142-04E

¹ ~~Five~~ 5 feet on residential local streets with a design speed of 25 miles per hour or slower.

~~(C)~~ ~~Trees shall be selected and located so that at maturity they do not cause damage or conflict with overhead utility lines.~~

(3) Street Tree Species Selection.- Trees shall be selected in accordance with the ~~H~~Landscape ~~s~~Standards of the Land Development Manual and the City's Street Tree Selection Guide. Palm trees may only be used to satisfy the street tree requirement as an accent, focal, or secondary tree where identified as an

acceptable street tree species in an adopted *land use plan*, or as part of an *historic landscape*.

- (b) [No change in text.]

§142.0410 Previously Conforming Properties Landscape Requirements

- (a) When additions to *structures* or additional *structures* on developed properties are subject to this section in accordance with Table 142-04A, they shall meet the requirements of this section.- The required *street yard*, *remaining yard*, and *vehicular use area* planting areas and plant points for *previously conforming* properties are established in accordance with the following formula.

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

- (b) When additions or modifications to existing permanent or temporary parking and *vehicular use areas* are subject to this section in accordance with Table 142-04A they shall meet the requirements of this section.- The required *vehicular use area* planting area and plant points for *previously conforming* properties is established in accordance with the following formula.

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

§142.0411 Revegetation and Erosion Control

- (a) Permanent Revegetation. All graded, disturbed, or eroded areas that will not be permanently paved or covered by *structures* shall be permanently revegetated and irrigated as shown in Table 142-04F and in accordance with the standards in the Land Development Manual.

Table 142-04F
Permanent Revegetation and Irrigation Requirements

Location of Disturbed Area	Slope of Disturbed Area	Required Irrigation System	Required Revegetation or Erosion Control
Within 100 feet of areas with native or naturalized vegetation	Slope height of 15 feet or less	Automatic, above grade, temporary irrigation system	Native or naturalized ground cover consisting of rooted cuttings or hydroseed mix
	4:1 or greater with a slope height over 15 feet	Automatic, above grade, temporary irrigation system	Native or naturalized ground cover consisting of rooted cuttings or hydroseed mix, and native or naturalized trees and shrubs (minimum 1-gallon size) planted at a minimum rate of one plant per 100 square feet of disturbed area
100 feet or further from areas with native or naturalized vegetation	Less than 4:1 (4 horizontal feet to 1 vertical foot)	Automatic, below grade, permanent irrigation system	Hydroseed, mulch, or equivalent
	4:1 or greater with a slope height of 15 feet or less	Automatic, below grade, permanent irrigation system	Drought tolerant groundcover consisting of rooted cuttings or hydroseed mix
	4:1 or greater with a slope height over 15 feet	Automatic, below grade, permanent irrigation system	Drought tolerant groundcover consisting of rooted cuttings or hydroseed mix, and drought tolerant trees and shrubs (minimum 1-gallon size) planted at a minimum rate of one plant per 100 square feet of disturbed area

- (b) Temporary Revegetation. Graded, disturbed, or eroded areas that will not be permanently paved, covered by *structure*, or planted for a period over 90 calendar days shall be temporarily revegetated with a non-irrigated hydroseed mix, ground cover, or equivalent material.- Temporary irrigation systems may be used to establish the vegetation.
- (c) [No change in text.]

§142.0412 Brush Management

Brush management is required in all base zones on publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.

- (a) [No change in text.]
- (b) Brush Management Zones.- Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of native or naturalized vegetation.- This fire break shall consist of two distinct brush management areas called “Zone One” and “Zone Two” as shown in Diagram 142-04E.

Diagram 142-04E

Brush Management Zones

[No change in text.]

- (1) Brush management Zone One is the area adjacent to the ~~structure~~ structure, shall be least flammable, and shall typically consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the *encroachment* limitations set

forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.

- (2) [No change in text.]
- (c) The width of Zone One and Zone Two shall not exceed 100 feet and shall meet the width requirements in Table 142-04H unless modified based on existing conditions pursuant to Section 142.0412(i) and the following:
 - (1) [No change in text.]
 - (2) Where Zone Two is located within City-owned property, a Right-of-Entry shall be executed in accordance with Section 63.0103 prior to any brush management activity. Zone Two ~~brush management~~ is not permitted in City-owned open space for new *development* proposals. For properties in the Coastal Overlay Zone, additional requirements for new *subdivisions* are found in Section 142.0412 (n).
 - (3) Zone Two ~~brush-management~~ is not permitted in areas designated for habitat mitigation per Section III of the Biology Guidelines in the Land Development Manual.

Table 142-04H

Brush Management Zone Width Requirements

[No change in text.]

- (d) through (f) [No change in text.]
- (g) Zone One Requirements
 - (1) [No change in text.]

- (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible construction that provides a means for transmitting fire to the habitable *structures*. *Structures* such as *fences*, walls, palapas, play ~~structures~~ structures, and non-habitable gazebos that are located within brush management Zone One shall be of noncombustible, one hour fire-rated, or Type IV ~~or~~ heavy timber construction as defined in the California Building Code.
- (3) Plants within Zone One shall be primarily low-growing and less than 4 feet in height with the exception of trees.- Plants shall be low-fuel and fire-resistive.

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

(h) Zone Two Requirements

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

- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual.- Non-native plants shall be pruned before native plants are pruned.
- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:

- (A) [No change in text.]
- (B) New plants shall be low-growing with a maximum height at maturity of 24 inches.- Single specimens of fire resistive native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
- (C) All new Zone Two plantings shall irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two.- Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings.- Permanent irrigation is not allowed in Zone Two.
- (D) Where Zone Two is being revegetated as a requirement of Section 142.0411(a), revegetation shall comply with the spacing standards in the Land Development Manual. Fifty percent of the planting area shall be planted with material that does not grow taller than 24 inches.- The remaining

planting area may be planted with taller material, but this material shall be maintained in accordance with the requirements for existing plant material in Zone Two.

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

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

(m) Where specifically authorized by the Fire Chief, goats may be used for brush management in accordance with the following:

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

(3) The area to be browsed shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate brush management in the Zone Two brush management areas. Signs must be posted at 25-foot intervals along the fence warning of the possibility of mild electric shock.

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

(7) The Fire Rescue Department shall not approve any permit under Section 142.0412(m) that will utilize a contractor determined by the City Manager to have negligently performed brush management services within the three prior calendar years.- All facts supporting such a determination shall be provided to the *applicant* in writing, and shall constitute a final determination on the City's behalf.

(n) Within the Coastal Overlay Zone, brush management for new *subdivisions* shall not be permitted to encroach into an environmentally sensitive

habitat area [ESHA], except that *encroachment* may be permitted where necessary to achieve a maximum *development* area of 25 percent including Zones One and Two. For purposes of this Section, ESHA shall include southern fordunes, ~~torrey~~ Torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species.

§142.0413 Water Conservation

- (a) [No change in text.]
- (b) Lawn Requirements.
 - (1) Lawn areas shall not exceed 10 percent of the landscape area on a *premises*, excluding required common areas, active recreation areas, and areas located within the *public right-of-way* between the curb and public sidewalk.- This restriction does not apply to *single dwelling units*.
 - (2) through (3) [No change in text.]
- (c) [No change in text.]
- (d) Water Budget.
 - (1) [No change in text.]
 - (2) The MAWA ~~Maximum Applied Water Allowance~~ Water Budget is calculated using the following formula (see Landscape Standards of the Land Development Manual for additional information):
$$\text{MAWA Water Budget} = (\text{ETo})(0.62) [(\text{ETAF})(\text{LA}) + (1-\text{ETAF})(\text{SLA})]$$

For residential landscape areas = $(ET_o)(0.62)[(0.55)(LA) + (0.45)(SLA)]$

For non-residential landscape areas = $(ET_o)(0.62) [(0.45)(LA) + (0.55)(SLA)]$

Legend for MAWA Water Budget Calculation Formula

[No change in text.]

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

(e) [No change in text.]

(f) Irrigation Audit.- An *applicant* subject to the requirement for a MAWA Water Budget is required to conduct and submit to the City an irrigation audit consistent with Section 2.7 of the Landscape Standards of the Land Development Manual.

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

(g) Reclaimed water.- *Development* in areas where reclaimed water is available and suitable for irrigation shall provide for a dual water distribution system for all landscaped areas.- Only reclaimed water shall be used for irrigation purposes where it is available.

(h) [No change in text.]

§142.0510 General Parking Regulations

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

(d) *Previously Conforming Premises*. Enlargement or change in use, or resumption of a discontinued use, for a *premises* that is *previously conforming* for the reason that it does not provide the number of *off-street parking spaces* required by this Division shall provide parking as follows:

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

(4) A discontinued use may resume on a *premises* with *previously conforming* parking if:

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

(C) The *premises* is located within the Parking Impact Overlay Zone, but the use has been discontinued for less than ~~2~~ 5 years as determined in accordance with Section 142.0510(d)(5).

(5) Within the Parking Impact Overlay Zone, if the previous use has been discontinued for a period of 2 or more consecutive years, parking shall be required as provided in this Division for the new use, unless a property owner has obtained a Neighborhood Development Permit.

(A) Discontinuance of the use for a period of ~~2~~ 5 or more consecutive years creates a presumption in favor of abandonment, against which the owner or person asserting *previously conforming* rights may offer evidence.

(B) [No change in text.]

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

§142.0530 Nonresidential Uses — Parking Ratios

(a) [No change in text.]

(b) Eating and Drinking Establishments. Table 142-05F establishes the required ratio of parking spaces to building *floor* area in the commercial

zones, industrial zones, and planned districts shown, for eating and drinking establishments that are the *primary use* on a *premises*.

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

[No change in text.]

Footnotes for Table 142-05F

¹ Eating and Drinking Establishments. The minimum parking ratios apply to eating and drinking establishments that do not have a common parking area with any other uses. There is no minimum parking requirement or maximum permitted parking for outdoor dining. With Transit Priority Areas, minimum required parking can be replaced by a placemaking project if a Temporary Use Permit is obtained in accordance with Section 123.0402. Within the CN, CO and CV Zones, minimum parking required can also be replaced with bicycle parking at a ratio of 2 bicycle parking spaces provided for every required vehicle parking space. Within the Coastal Overlay Zone, outdoor dining areas such as decks, patios, terraces, etc., are considered part of the eating and drinking establishment's *gross floor area* and are included in calculating parking requirements.

² through ⁵ [No change in text.]

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

§142.0640 Impact Fees for Financing Public Facilities

(a) [No change in text.]

(b) Payment of Fees

~~The payment of~~ Development Impact Fees (as defined in California Government Code Section 66000) ~~shall be required prior to~~ for applicable development shall be paid at the time required building permit fees are paid and no later than the first inspection of the development performed by the City issuance of any Building Permit in areas where Development Impact Fees have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of Development Impact Fees ~~prior to issuance of any construction permit issued or required for development~~ that would

increase demand for public facilities and/or result in the need for new public facilities. Development Impact Fees shall not be required for inclusionary *dwelling units* provided pursuant to Chapter 14, Article 2, Division 13 if the *applicant* has satisfied all the requirements of Division 13 for inclusionary *dwelling units* on the same *premises* as the market-rate *dwelling units*. The Development Impact Fee required by the City Manager ~~due shall be determined in accordance with the fee schedule approved by the applicable City Council resolution in effect~~ shall be paid at the time required building permit fees are paid and no later than the first inspection of the development performed by the City upon the issuance of a Building Permit, or construction permit, as applicable, and may include an automatic increase consistent with Section 142.0640(e).

Exemptions:

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

(c) [No change in text.]

(d) Fee Deferral

Notwithstanding Section 142.0640(b), Building Permits or ~~€~~construction permits, as applicable, may be issued if the City Manager defers payment of the DIFs in accordance with this Subsection. DIFs due pursuant to the City's Regional Transportation Congestion Improvement Program shall not be deferred under any circumstance.

(1) Unless otherwise specified in Section 142.0640(d)(5), Payment of DIFs may be deferred for a maximum period of two years from the

effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur until the applicable DIFs are paid.

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

(5) Notwithstanding Section 142.0640(d)(1), for Building Permits or construction permits issued between March 1, 2020 and March 1, 2022, payment of DIFs may be deferred for a maximum period of three years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur until the applicable DIFs are paid. For Building Permits or construction permits issued between March 1, 2020 and March 1, 2022, notwithstanding Section 142.0640(d)(4), the amount of the DIFs shall be determined by the DIFs rate for the year in which the DIFs are actually paid as set forth in the DIFs schedule in effect when the Fee Deferral Agreement was executed by the City, or a subsequently-approved DIFs schedule, whichever schedule is lower, plus automatic increase for the first two years only, consistent with Section 142.0640(c), if applicable.

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

§142.1235 Roof Signs in Commercial and Industrial Zones

The following regulations apply to *roof signs*, which are permitted only in *Sign* Category A of the commercial and industrial zone *sign* categories.

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

(e) Locational Regulations for All *Roof Signs*

(1) [No change in text.]

(2) *Roof signs* that are located on a *premises* with a boundary within 100 feet from the *property line* of a residentially zoned ~~property~~ lot or *premises* shall not exceed 20 feet in height unless one of the following circumstances exist:

(A) The *sign* is located more than 100 feet from the ~~boundary~~ *property line* of the residentially zoned property; or

(B) The entire *premises* is within 100 feet from the *property line* of the ~~boundary of the~~ residentially zoned property, and the *sign* is located on the 25 percent of the *lot or premises* that is farthest from ~~that property;~~ *the property line.*

(3) [No change in text.]

§143.0126 Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands

Whenever *development* activity within *environmentally sensitive lands* is deemed necessary by order of the City Manager to protect the public health or safety, the City Manager may authorize, without a public hearing, the minimum amount of impact necessary to protect the public health or safety, subject to the following:

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

- (f) Conditions. The City Manager may approve an emergency Site Development Permit with conditions, including an expiration date for any work authorized by the City Manager.
- (1) through (2) [No change in text.]
- (3) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required through the regular process in accordance with this Division. The application for the Neighborhood Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work, except that an application for a *capital improvement program project or public project* shall be submitted within 180 days of completion of the emergency work.
- (g) [No change in text.]

§143.0450 Supplemental Planned Development Permit Regulations for Residential Rural Cluster Development with Increased Density

In addition to the general regulations for all Planned Development Permits and supplemental regulations for residential *developments*, the following regulations apply to all residential rural cluster *developments* requesting increased *density* that are located in the AR-1-1 and OR-1-2 zones within *Proposition A Lands*.

Approval of a proposed *development* in accordance with this section shall require the *findings* in Section 126.04045(b) to be made.

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

§143.0740 Incentives in Exchange for Affordable Housing Dwelling Units

An *applicant* proposing *density* bonus shall be entitled to incentives as described in this Division for any *development* for which a written agreement and a deed of trust securing the agreement is entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission. The City shall process an incentive requested by an *applicant* as set forth in this Section.

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

Table 143-07A
Very Low Income Density Bonus
Households

Percent <i>Very Low Income</i> Units	Percent <i>Density</i> Bonus	Number of Incentives
5	20	1
6	22.5	1
7	25	1
8	27.5	1
9	30	1
10	32.5 ¹	2
11	35	2
12	38.75	3
13	42.5	4
14	46.25	4
≥ 15	50 ^{1,2}	5

¹ For *development* containing 50 pre-density dwelling units or less, Once this maximum is reached, an additional 25 percent *density* bonus and three incentives are is allowed if an additional 10 percent of the pre-density bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

² Once this maximum is reached, an additional 25 percent *density* bonus and three incentives are allowed if an additional 10 percent of the pre-density bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

Table 143-07B
Low Income Density Bonus
Households

Percent <i>Low Income</i> Units	Percent <i>Density</i> Bonus	Number of Incentives
---------------------------------	------------------------------	----------------------

Percent <i>Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10	20 ¹	1
11	21.5	1
12	23	1
13	24.5	1
14	26	1
15	27.5	1
16	29	1
17	30.5	1
18	32	1
19	33.5	1
20	35	2
21	38.75	2
22	42.5	2
23	46.25	2
≥ 24 - 29	50 ⁺²	2
≥ 30	50 ⁺²	3
31 - 32	50 ⁺²	4
≥ 33	50 ⁺²	5

¹ For development containing 50 pre-density dwelling units or less, Once this maximum is reached, an additional 25 percent density bonus and three incentives are ~~is~~ allowed if an additional 10 percent of the pre-density bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the *development* is within a *transit priority area*.

² Once this maximum is reached, an additional 25 percent density bonus and three incentives are allowed if an additional 10 percent of the pre-density bonus units are restricted in accordance with the provisions of this Division for households earning less than or equal to 120 percent of the area median income, as adjusted for household size, and the development is within a transit priority area.

Table 143-07C
Moderate Income Density Bonus
Households

[No change in text.]

§151.0103 Applicable Regulations

(a) [No change in text.]

(b) The following regulations apply in all planned districts:

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

- (8) Parking Regulations for affordable housing *dwelling units* in Land Development Code Section 142.0527, except where the Planned District Ordinance provides a lower parking ratio than allowed in Section 142.0527, and Parking Regulations for eating and drinking establishments in the CN, CO, and CV Zones as set forth in Table 142-05F.

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

§154.0405 Streetscape Development Regulations/Encroachment Permits

Within the Cass Street Commercial District, no alteration, construction, development or use of the abutting public right-of-way shall be permitted unless the streetscape and encroachment permit standards are met.

The following Streetscape and Encroachment Permit Standards shall be the basis for project review by the City Manager.

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

(d) Parkway Landscaping and Street Trees

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

- (3) Trees shall be planted in the ground between the sidewalk and the curb. The minimum size tree shall be a standard trunk, 24-inch box or 15-gallon size and a minimum of 8 feet high. Trees with a low spreading branch ~~structure~~ structure shall typically not be used in the street rights-of-way. Individual specimens shall be selected, planted, and pruned, if necessary, such that major scaffold

branches are at least 8 feet above the finish surface or finish grade,
as measured at the trunk.

(4) [No change in text.]

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

§155.0251 Separately Regulated Uses

The following additional separately regulated use regulations apply in the Central Urbanized Planned District:

- (a) Eating and Drinking Establishments Abutting Residentially Zoned and Open Space Zoned Property. Eating and drinking establishments on *premises* abutting a residential or open space-residential ~~zones~~ lot are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Table 155-02C subject to the regulations in Section 155.0251(a)(1). Eating and drinking establishments on *premises* abutting a residential or open space-residential ~~zone~~ lot in the zones indicated with an “N” in the Use Regulations Table 155-02C may be permitted with a Neighborhood Use Permit subject to the regulations in Section 155.0251(a)(2).

(1) Limited Use Regulations

- (A) Eating and drinking establishments abutting a residential or open space-residential ~~zone~~ lot may operate only during the hours between 6:00 a.m. and 12:00 midnight.

(2) Neighborhood Use Permit Regulations

- (A) Eating and drinking establishments abutting a residential or open space-residential ~~zone~~ lot may operate only during the hours between 6:00 a.m. and 10:00 p.m.

(B) Outdoor seating or service areas shall be limited in size and location and screened from an abutting ~~residentially zone~~ ~~property~~ residential lot as needed.

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

(3) Neighborhood Use Permit Regulations. Except in the CU-1-1 and CU-1-2 zones, eating and drinking establishments abutting a residential ~~zones~~ lot or premises that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the following regulations.

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

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

§155.0253 Supplemental Development Regulations

The following additional supplemental development regulations apply in the Central Urbanized Planned District. These regulations shall supersede any regulations contained in Land Development Code Chapter 14, Article 3 that are inconsistent with or not expressly incorporated into the Central Urbanized Planned District regulations.

Table 155-02F
Supplemental Development Regulations Applicability

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process⁽¹⁾
Residential and mixed commercial/residential development in facility deficient neighborhoods shown on Map B-4104 under circumstances outlined in Section 155.0253(a)	155.0243(a)	Site Development Permit/Process 3 <u>None Required</u>
Residential development in a commercial zone on El Cajon Boulevard or University Avenue that is not part of a mixed-use (commercial-residential) project under circumstances outlined in Section 155.0253(b)	Section 155.0253(b) and Land Development Code Sections 126.0604, 126.0605, 126.0606 and 143.0410	Planned Development Permit/Process 3
Commercial development that varies from the required architectural features contained in Section 155.0244	Section 155.0253(c) and Land Development Code Sections 126.0604, 126.0605, 126.0606 and 143.0410	Planned Development Permit/Process 3
Commercial and Industrial establishments exceeding 5,000 square feet gross floor area <u>gross floor area</u> subject to the criteria contained in Section 155.0253	Section 155.0253(d) and Land Development Code Sections 126.0604, 126.0605, 126.0606 and 143.0410	Planned Development Permit/Process 3
Residential development that varies from the required architectural features contained in Section 155.0232	Section 155.0253(e) and Land Development Code Sections 126.0604, 126.0605, 126.0606 and 143.0410	Planned Development Permit/Process 3
Warehouses, Wholesale Distribution, and Light Manufacturing uses exceeding 10,000 square feet up to a maximum of 30,000 square feet, subject to the criteria contained in Section 155.0253(f)	Section 155.0253(f) and Land Development Code Sections 126.0604, 126.0605, 126.0606 and 143.0410	Planned Development Permit/Process 3

- (a) Residential and Mixed Commercial-Residential Development in Facility-Deficient Neighborhoods, are subject to all common open space requirements of Section 131.0456 and outdoor lighting regulations of Section 142.0740. A Site Development Permit decided in accordance with

~~Process 3 is required for residential and mixed residential-commercial projects within the facility deficient neighborhoods as shown on Map Number C-896 and Diagram 155-2B, that propose the addition of three or more dwelling units per lot, unless:~~

- ~~(1) The proposed development is within 600 feet of a public park, a public school with a joint use agreement with the City of San Diego for public recreational use, or a school that is open during non-school hours for public recreational use.~~
- ~~(2) When residential and mixed residential-commercial projects are required to obtain a Site Development Permit the proposed development shall:~~
 - ~~(A) provide a minimum of 750 square feet of on-site usable (recreational) open space area per dwelling unit with a minimum of 10 feet in each dimension, within a non-vehicular area. The area will be landscaped and may also include hardscape and recreational facilities; and~~
 - ~~(B) In the absence of a street light within 150 feet of the property, adequate neighborhood serving security lighting consistent with Land Development Code Section 142.0740 shall be provided on-site.~~

Diagram 151-02B

Facility Deficient Neighborhoods

[No change in text.]

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

(f) Warehouses, Wholesale Distribution, and Light Manufacturing uses exceeding 10,000 up to a maximum of 30,000 square feet in ~~gross floor area~~ gross floor area per ~~premises~~ premises in the CR-2-1, CC-4-3, CC-5-3, CC-5-4, CU-2-3, CU-2-4, CU-2-5, CU-3-3, CU-3-6, CU-3-7 and CU-3-8 zones require a Planned Development Permit decided in accordance with Process Three. The General Development Regulations for Planned Development Permits in Land Development Code Section 143.0410 shall apply.

§156.0302 Definitions

The following definitions apply to this Article. Where not otherwise specified, the definitions found in Chapter 11, Article 3, Division 1 of the Land Development Code shall apply. Each word or phrase that is defined in this Division or in Chapter 11, Article 3, Division 1 of the Land Development Code appears in the text in italicized letters.

Active commercial uses mean commercial uses that are accessible to the general public, that generate walk-in clientele, and that contribute to a high level of pedestrian activity. *Active commercial uses* include retail shops, eating and drinking establishments, commercial recreation and entertainment, personal and convenience services, financial institutions, cultural institutions, ~~and~~ galleries, and hotel lobbies. *Active commercial uses* are listed in Table 156.0308-A as being permitted on *Main Streets*.

Alternative Interim Uses through *Cultural institution* or *cultural use* [No change in text.]

Design review means the formal review of a proposed *development* ~~through the established process relevant to the size and nature of the proposed development~~ for consistency with the Downtown Design Guidelines.

Disposition and Development Agreement (DDA) through *Outdoor Activities* [no change in text.]

Outdoor Use Area means an unenclosed area on private property associated with an eating and drinking establishment or a public assembly use that is open to the general public.

Outfield Park through *Urban open space* [No change in text.]

§156.0305 Rules of Calculation and Measurement

The Rules of Measurement provided in Chapter 11, Article 3, Division 2 of this Code shall apply to the Centre City Planned District.

(a) [No change in text.]

(b) *Gross floor area* shall be calculated in accordance with Section 113.0234, with the following modifications:

(1) ~~Underground parking structures count as gross floor area where, at any point, the vertical distance from final proposed grade to the finished floor elevation immediately above is more than 3 feet, 6 inches.~~

- ~~(2)~~(1) Phantom *floors*, as defined in Section 113.0234(b)(4) shall not count as *gross floor area* in either residential or commercial buildings.
- ~~(3)~~(2) *Roof decks* shall not be counted as *gross floor area* pursuant to Section 113.0234(b)(5) unless the perimeter walls enclosing the area exceed 6 feet in height for non-transparent materials or 8 feet for transparent materials.
- ~~(4)~~(3) Notwithstanding Section 113.0234(d)(2), interior modifications involving the addition of actual *floor area* count as *gross floor area* except where:
- (A) through (B) [No change in text.]
- ~~(5)~~(4) Mechanical *penthouses* do not count against *gross floor area* when architecturally integrated into the overall building design.

§156.0307 Land Use Districts

Twelve land use districts, shown in Figure B, define geographic areas that are subject to specific land use classifications. In addition, twelve overlay districts, shown in Figures C, D, and F, establish areas where additional requirements apply. Permitted land use classifications within each land use district are shown on Table 156-0308-A. Specific requirements for minimum percentages of *active commercial uses* and commercial uses on the ground-floor along *street frontages* are provided.

- (a) [No change in text.]
- (b) Overlay Districts

The following Overlay Districts apply as illustrated in Figures C, D,
and F:

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

- (6) Employment Overlay (E). To ensure adequate opportunities for employment based commercial uses, at least 50 percent of the *gross floor area* within each *development* in this overlay district shall be dedicated to *employment uses* such as professional office, education, *cultural uses*, retail, *hotel*, or similar commercial uses. Residential uses in this district shall not exceed 50 percent of the *gross floor area* within any *development*. The 50 percent residential limitation may be exceeded through the Affordable Housing Regulations of Chapter 14, Article 3, Division 7. *Development* approved through an *OPA* or *DDA* may phase *development* build-out, allowing non-employment phases to precede employment phases, subject to strict performance standards established by set timeframes for *employment use* construction plan completion, plan submittal, and other requirements to ensure timely completion. In order to meet the 50 percent *employment use* requirement, a *development* may not include any employment area for which building permits have been obtained and construction commenced before May 3, 2006. In the E District, existing *floor area* dedicated to *employment use* or similar commercial use shall not be converted to any non-

employment use. Multiple developments on adjoining individually owned lots may satisfy the requirements of this section through the recordation of a legal covenant in a form approved by the City Manager and the City Attorney. Uses appropriate for the E overlay are identified in Table 156-0308-A, under Employment Overlay.

(7) through (14) [No change in text.]

§156.0308 Base District Use Regulations

(a) [No change in text.]

(b) *Previously Conforming Land Uses and Structures*

Land uses and *structures* that were legally established under previous regulations but that do not conform to the land use regulations of this Article may continue to exist and operate pursuant to Chapter 12,

Article 7, Division 1 of the Land Development Code, with the exceptions: ~~that the gross floor area of previously conforming uses and structures may~~

~~be expanded up to 100 percent through a Neighborhood Use Permit.~~

~~Within the Residential Emphasis District, previously conforming uses may be placed next to conforming commercial uses without complying with the 80 percent residential land use requirement for new development.~~

(1) The gross floor area of previously conforming uses and structures may be expanded up to 10 percent of the existing gross floor area of structure on the premises through a Process One approval.

(2) The gross floor area of previously conforming uses and structures may be expanded up to 100 percent of the existing gross floor area

of structure on the premises through a Process Two Neighborhood

Use Permit.

- (3) Within the Residential Emphasis District, previously conforming
uses may be replaced with conforming commercial uses without
complying with the 80 percent residential land use requirement for
new development.

Table 156-0308-A: CENTRE CITY PLANNED DISTRICT USE REGULATIONS														
LEGEND: P = Permitted by Right; C = Conditional Use Permit Required; -- = Use Not Permitted; L = Limited Use; N = Neighborhood Use Permit Required; S = Site Development Permit Required; MS = Main Street; CS = Commercial Street; E = Employment Overlay														
Use Categories/ Subcategories	C	NC	ER	BP	WM ⁷	MC	RE	I ⁷	T ⁷	PC	OS	CC ⁷	Additional Regulations	MS/CS & E Overlays
Public Park/ Plaza/Open Space through Residential ¹ , Shopkeeper Units [No change in text.]	[No change in text.]													
Live/Work Quarters	P	P	P	P	--	P	P	--	--	P	--	--	§141.0311	
Separately Regulated Residential Uses														
Continuing Care Retirement Communities	€ L	€ L	€ L	€ L	--	€ L	€ L	--	--	€ L	--	--	§141.0303	
Fraternities, Sororities and Dormitories through Home Occupations [No change in text.]	[No change in text.]													
Senior Housing	€	€	€	€	--	€	€	--	--	€	--	--	§156.0309 (e)(1)	
Live/Work Quarters	P	P	P	P	--	P	P	--	--	P	--	--	§141.0311	
Living Units through Permanent Supportive Housing [No change in text.]	[No change in text.]													

Table 156-0308-A: CENTRE CITY PLANNED DISTRICT USE REGULATIONS

LEGEND: P = Permitted by Right; C = Conditional Use Permit Required;
 -- = Use Not Permitted; L = Limited Use; N = Neighborhood Use Permit Required;
 S = Site Development Permit Required; MS = Main Street; CS = Commercial Street;
 E = Employment Overlay

Use Categories/ Subcategories	C	NC	ER	BP	WM ⁷	MC	RE	I ⁷	T ⁷	PC	OS	CC ⁷	Additional Regulations	MS/CS & E Overlays
Separately Regulated Institutional Uses														
Assembly Uses including Places of Religious Assembly	P	P	P	P	P	P	C	--	--	P	--	P		CS
Satellite Antennas through Homeless Facilities ⁶ [No change in text.]	[No change in text.]													
Hospitals, 24- hour Emergency Clinics, Intermediate Care Facilities, and Nursing Facilities	P	C	P	P	--	P	--	--	--	P	--	P		CS, E
Major Transmission, Relay or Communication Switching Station through <i>Wireless Communication Facilities</i> [No change in text.]	[No change in text.]													
Retail Sales	P	P	P	P	P	P	P	P	--	P	--	P	§156.0307(a), (b) & Figure C	MS, CS, E
Separately Regulated Retail Sales Uses														
Marijuana <u>Cannabis</u> Outlets	-	-	-	-	C	-	-	C	C	-	-	C	§141.0504	
Off-Site Alcohol Beverage Sales through Commercial Services , With <i>Live Entertainment</i> [No change in text.]	[No change in text.]													
With Outdoor Use Area	<u>L/ N</u>	<u>L/ N</u>	<u>L/ N</u>	<u>L/ N</u>	<u>L/ N</u>	<u>L/ N</u>	--	--	--	<u>L/ N</u>	<u>L/ N</u>	<u>L/ N</u>	<u>§156.0315(d)</u>	

Table 156-0308-A: CENTRE CITY PLANNED DISTRICT USE REGULATIONS

LEGEND: P = Permitted by Right; C = Conditional Use Permit Required;
-- = Use Not Permitted; L = Limited Use; N = Neighborhood Use Permit Required;
S = Site Development Permit Required; MS = Main Street; CS = Commercial Street;
E = Employment Overlay

Use Categories/ Subcategories	C	NC	ER	BP	WM ⁷	MC	RE	I ⁷	T ⁷	PC	OS	CC ⁷	Additional Regulations	MS/CS & E Overlays
Building Services through <i>Brewpub Tasting Rooms</i> [No change in text.]	[No change in text.]													
With Outdoor Use Area	<u>L</u> / N	<u>L</u> / N	<u>L</u> / N	<u>L</u> / N	<u>L</u> / N	<u>L</u> / N	<u>L</u> / N	--	--	<u>L</u> / N	P	<u>L</u> / N	<u>§156.0315(d)</u>	
With <i>Live Entertainment</i> through Funeral & Mortuary Services [No change in text.]	[No change in text.]													
<u>Instructional Studios</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>P</u>		<u>MS, CS, E</u>
Maintenance & Repair through Separately Regulated Commercial Service Uses, Animal Hospitals & Kennels [No change in text.]	[No change in text.]													
<u>Assembly Uses, including Places of Religious Assembly</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>==</u>	<u>==</u>	<u>P</u>	<u>==</u>	<u>P</u>		<u>CS</u>
<i>Bed & Breakfast Establishments</i> through Child Care Facilities [No change in text.]	[No change in text.]													
<u>Instructional Studios</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>—</u>	<u>—</u>	<u>P</u>	<u>—</u>	<u>P</u>		<u>MS, CS, E</u>
<i>Outdoor Activities</i> Through Separately Regulated Vehicle & Vehicular	[No change in text.]													

Table 156-0308-A: CENTRE CITY PLANNED DISTRICT USE REGULATIONS

LEGEND: P = Permitted by Right; C = Conditional Use Permit Required;
-- = Use Not Permitted; L = Limited Use; N = Neighborhood Use Permit Required;
S = Site Development Permit Required; MS = Main Street; CS = Commercial Street;
E = Employment Overlay

Use Categories/ Subcategories	C	NC	ER	BP	WM ⁷	MC	RE	I ⁷	T ⁷	PC	OS	CC ⁷	Additional Regulations	MS/CS & E Overlays
Equipment & Service Uses, Automobile Service Stations [No change in text.]														
Wholesale, Distribution & <u>and</u> Storage														
Warehouses & Wholesale Distribution Facilities	L ⁴	--	L ⁴	L ⁴	P	P	--	P	P	--	--	--		
Moving & Storage Facilities	L ⁴	--	L ⁴	L ⁴	P	P	--	P	P	--	--	--		
Separately Regulated Wholesale, Distribution & <u>and</u> Storage Uses														
Temporary Construction Yards through Industrial, Trucking and Transportation Terminals [No change in text.]	[No change in text.]													
Separately Regulated Industrial Uses														
Marijuana Cannabis Production Facilities	-	-	-	-	-	-	-	-	-	-	-	-		
Signs														
Allowable Signs, Separately Regulated Signs Uses through Other Use Requirements, Temporary Uses and Structures [No change in text.]	[No change in text.]													

Footnotes for Table 156-0308-A

¹ through ² [No change in text.]

³ ~~Requires active ground floor uses along street frontages. For hotels with 100 feet or more of street frontage along a Main Street, active commercial uses other than the hotel lobby shall constitute at least 50% of the required active commercial use frontage.~~

⁴ through ¹¹ [No change in text.]

§156.0309 FAR Regulations and TDRs

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

(c) *Development Permit FAR*

The approval and recordation of a *development permit* establishes the distribution of *gross floor area* within the *development*. The *development* may consist of one or more individually-owned *lots*, but the permitted *FAR* for any individual *lots* remain subject to the *FAR* limits within the *development* boundaries as defined by the *development permit*. If a *development* does not require a *development permit*, the distribution of *FAR* between the *lots* may be executed through the recordation of a legal covenant in a form approved by the City Manager and the City Attorney.

(d) [No change in text.]

(e) *FAR Bonuses*

Development may exceed the maximum *base FAR* for the site established by Figure H if the *applicant* provides certain public benefits or *development* amenities. Table 156-0309-A shows the maximum amount of *FAR bonus* that may be earned by providing benefits or amenities, and Figure J shows the maximum *FAR bonus* that may be purchased for a site through the *FAR Payment Bonus Program* (exclusive of bonuses for affordable housing as described in Section 156.0309(e)(1)). *Applicants* utilizing the *FAR bonus* program shall have *CC&Rs* recorded on the

property, ensuring that the benefits or amenities provided to earn the bonus are maintained in perpetuity, or in the case of affordable housing, for the duration specified in Section 156.0309(e)(1)(B)(iv).

The public benefits and *development* amenities that may earn a *FAR bonus* are the following:

TABLE 156-0309-A: *FAR BONUS*

[No change in text.]

(1) [No change in text.]

(2) *Urban Open Space.* ~~*Applicants*~~ *Development* that reserves a portion of their site for the *development* of public *urban open space* may qualify for a *FAR bonus* of 1.0 or 2.0, as specified in Table 156-0309-A, subject to the following criteria:

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

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

(8) *Green Building.* The Centre City Green (CCG) Building Incentive Program awards *development* incentives for buildings that exceed the California Green Building Standards Code (CALGreen). Two different paths to earn an *FAR bonus* are available to *applicants* as follows:

(A) *Performance Path.* The *Performance Path* allows *applicants* to demonstrate a high level of building sustainability by achieving a targeted level of performance ~~sustainability by achieving a targeted level of performance~~

in an existing voluntary green building rating system.

Approved rating systems include:

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

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

(f) Exemptions from *FAR* Calculations

The following exemptions apply to the calculations for *FAR*:

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

(4) ~~Main/Commercial Streets~~. All *floor* area located on the ground *floor* or ground-floor mezzanine that is directly accessible to the *street* and is dedicated to *active commercial uses on main streets or commercial streets* shall not be counted as *gross floor area* for the purposes of calculating the *FAR* for the *development*.

(5) [No change in text.]

(g) [No change in text.]

§156.0310 Development Regulations

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

(d) Building Bulk. Building bulk is divided into three main areas of the building: the *building base*, the *mid-zone*, and the *tower*. The *mid-zone* shall be applicable only in the areas within the Large Floorplate and Employment Overlay Districts, as illustrated in Figure C. The *development* standards for building bulk are summarized in Table 156-0310-A:

TABLE 156-0310-A: DEVELOPMENT STANDARDS

[No change in text.]

(1) *Building Base*

(A) [No change in text.]

(B) *Street Wall Frontage*. A *street wall* containing habitable space shall be provided along 100 percent of the *street frontage*, with the following exceptions:

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

(v) Patios and balconies up to 10 feet in depth and in front of habitable space may qualify as *street wall* must be approved through the ~~Centre City~~ Development Permit review process; or design review;

(vi) Portions of *development* sites associated with documented active faults or no-build easements may be exempted from the *street wall* requirements; or

(vii) Side yard setbacks up to 5 feet in width may be approved through design review.

(C) [No change in text.]

(D) *Minimum Street Wall Height*. The minimum height of the *street wall* shall be 45 feet in accordance with Table 156-0310-A with the following exceptions:

(i) For *development* involving a *designated historical resource*, a lower *street wall* height may be

approved as part of the ~~D~~d~~e~~s~~i~~g~~n~~ ~~R~~e~~v~~i~~e~~w process.

Street wall height and design will also be subject to the review and approval processes pertaining to *historical resources* contained within Chapters 11 through 14 of the Land Development Code.

(ii) through (iv) [No change in text.]

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

TABLE 156-0310-B: VIEW CORRIDOR STEPBACKS

[No change in text.]

(2) [No change in text.]

(3) *Tower*

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

(D) *Tower Setback* from Public Streets. *Towers* shall be set back from any *property line* adjoining a public *street* by a minimum of 15 feet, with the following exceptions:

(i) [No change in text.]

(ii) Two sides of a *tower* may be exempted from this *setback* requirement when it is determined through the ~~D~~d~~e~~s~~i~~g~~n~~ ~~R~~e~~v~~i~~e~~w process that the resulting design is improved and does not result in massing inconsistent with the neighborhood. This provision does not apply within the Little Italy Sun Access Overlay District.

(iii) [No change in text.]

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

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

(g) Residential *Development* Requirements

The following standards apply to residential *developments* that contain fifty or more *dwelling units*:

(1) Common Outdoor Open Space

Each *development* shall provide *common outdoor open space* either at *grade*, podium, or roof level. *Common outdoor open space* areas shall have a minimum dimension of 30 feet in each direction, or 40 feet between opposing building walls when bordered by three building walls exceeding a height of 15 feet, and may contain active and passive areas and a combination of *hardscape* and landscape features, but a minimum of 10 percent of the *common outdoor open space* must be planting area.

All *common outdoor open space* must be accessible to all residents of the *development* through a common corridor. *Development* shall provide *common outdoor open spaces* as a percentage of the *lot* area in accordance with Table 156-0310-C.

TABLE 156-0310-C: COMMON <u>OUTDOOR</u> OPEN SPACE	
<i>Lot</i> Size	% Common Outdoor Open Space
≤10,000 sf	10

10,001 – 30,000 sf	15
>30,000	20

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

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

§156.0311 Urban Design Regulations

Focusing on how buildings and the spaces between them are consciously designed and integrated, the following urban design standards are intended to create a distinct urban character for the Centre City Planned District, ensure that *development* is designed with a pedestrian orientation, and foster a vital and active street life.

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

(g) Rooftops

(1) [No change in text.]

(2) All mechanical equipment, appurtenances, and access areas shall be intentionally grouped and architecturally *screened* within fully covered enclosures consistent with the overall composition of the building. Mechanical enclosures shall have a *screened* or louvered top to improve views from above and to provide required air circulation. Multiple roof-top individual condenser units located in orderly and linear patterns may be exempted from overhead screening through the ~~D~~d~~e~~s~~i~~g~~n~~ ~~R~~e~~v~~i~~e~~w process.

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

§156.0313 Parking, Loading, Traffic and Transportation Demand Management Standards

- (a) [No change in text.]
- (b) Non-Residential *Off-Street Parking Space* and Loading Bay Requirements

The parking requirements in Table 156-0313-B and Section 156.0313(b) shall apply to non-residential uses.

**TABLE 156-0313-B
NON-RESIDENTIAL OFF-STREET PARKING SPACE REQUIREMENTS**

Use Category	Minimum		Notes
Office through Warehouse & Storage [No change in text.]	[No change in text.]		
<i>Hotel</i>	0.3 spaces per room		<i>Development</i> containing less than 25 <u>100</u> guest rooms is exempt.
<i>Single Room Occupancy Units</i>	Market rate unit	0.5 spaces per unit	Parking shall be based on the occupancy/rent restriction applied to the specific unit.
	50% AMI	0.1 spaces per unit	
	At or below 40% AMI	None	

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

(3) Small Lot Commercial Development – commercial development on lots of 15,000 square feet or less shall be exempt from parking requirements.

(4) An alternative parking design for a commercial development may be approved for a parking area exclusively serviced by a valet parking program, subject to approval by the City Manager. The

parking operation design and valet requirements shall be documented in a recorded agreement subject to approval, as to form, by the City Attorney.

(c) [No change in text.]

~~(d)~~ ~~Small Lot Reduction~~

~~For lots of 5,000 square feet or less, the minimum number of parking spaces required is reduced by 50 percent.~~

~~(e)~~(d) Enclosed Parking

All parking provided within a *development* shall be enclosed and architecturally integrated into, or on top of, a *structure*.

~~(f)~~(e) Below-Grade Parking

At least three levels of below-*grade* parking shall be provided prior to the provision of any above-*grade* parking, with the following exceptions:

(1) Below-*grade* parking is not required for parcels ~~less than~~ 10,000 square feet in area or less.

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

(4) Public parking garages and *development* located within the Ballpark Mixed-Use District are only required to provide two levels of below-*grade* parking prior to the provision of any above-*grade* parking.²

(5) [No change in text.]

~~(g)~~(f) Existing Buildings

Buildings may be converted from one land use to another without providing additional parking spaces, ~~unless the conversion is from commercial to residential use.~~ The proposed ~~conversion of a building to a residential use or the~~ expansion of any building that cannot meet the parking requirements may be granted a deviation from the parking requirements by the City Manager upon approval of a Neighborhood Use Permit in accordance with Chapter 12, Article 6, Division 2 of this Code.

~~(h)~~(g) *Structured Parking Facility Standards*

The following standards apply to all above-*grade* parking facilities:

- (1) [No change in text.]
- (2) All parking located above the ground level shall meet the following standards:
 - (A) through (E) [No change in text.]
 - (F) All above-*grade* parking facilities directly abutting a *street* shall exhibit level floor areas for a minimum distance of 40 feet from the *property line* to allow for future conversion to habitable uses.
- (3) through (7) [No change in text.]

~~(i)~~(h) *Surface Parking Lot Standards*

Surface parking *lots* are interim land uses and shall be designed according to the following standards:

- (1) For sites with an approved ~~Centre City Development Permit~~ *development permit* or those designated for as a *public park* in the

Downtown Community Plan, temporary surface parking *lots* may be approved for a maximum period of two years. The parking *lots* shall be improved with appropriate paving, striping, and security lighting to City standards.

- (2) For sites without an approved ~~Centre City Development Permit~~ development permit or for parking *lots* improved and operated for a period of over two years, the following standards shall apply in addition to those listed above for temporary surface parking *lots*:
- (A) through (B) [No change in text.]

- (3) [No change in text.]

~~(j)~~(i) Off-Site Parking Provisions

Developments may provide required *off-street parking spaces* at an off-site location. The off-site location shall be within 500 feet of the *development* served by the parking, measured *property line to property line*, and shall be secured by *CC&Rs* recorded on both properties in a form acceptable to the City Attorney's Office that ensure the parking facility's use without reduction in spaces in perpetuity (unless another off-site location is secured in compliance with this Section).

~~(k)~~(j) Parking Space Standards

All parking spaces required by this Division shall meet City standards in accordance with Section 142.0560 of the Land Development Code.

Parking spaces provided in excess of the number of spaces required may deviate from the standards, but the final and permanent size of any non-

standard spaces for exclusive use by a *dwelling unit* in a residential *development* shall be disclosed to the resident prior to the execution of a sales or rental agreement.

~~(+)~~(k) Vehicular Access

- (1) All driveways shall be perpendicular to the public sidewalk.
- (2) The maximum linear feet of curb cut for vehicular access shall be calculated at a ratio of 1 linear foot per 500 square feet of site area. Parcels containing 10,000 square feet and less may double this ratio (2 linear feet of curb cut per 500 feet of site area). Curb cuts that serve up to ten parking spaces shall be between 12 and 20 feet wide. Curb cuts that serve over ten parking spaces shall be between 20 and 30 feet wide.
- (3) All vehicular access curb cuts shall be located at least 65 feet from the curb line of the closest intersection. Curb cuts on the same parcel must be separated by at least 80 feet, with the exception of a curb cut to provide access to an off-*street* loading bay, which may be closer than 80 feet if the widths of both curb cuts are minimized to the extent possible. Curb cuts shall be located to minimize conflicts and maximize on-*street* parking. On parcels of 5,000 square feet or less, the dimensions listed above shall be reduced in half.

- (4) No curb cuts are permitted on the *streets* designated on Figure E unless driveway access is not feasible on adjacent *streets* due to *lot* size, *lot* configuration, or other significant factors.

~~(m)~~(l) Driveway Slopes and Security Gates

Driveway slopes shall meet the requirements of Section 142.0560(j)(9) of the Land Development Code. There shall be a transition behind the *public right-of-way* not to exceed a gradient of 5 percent for a distance of 10 feet. Security gates for parking garages shall be located a minimum distance of 10 feet from the front *property line*, and the door swing of any security gate shall not encroach into the 10-foot required minimum distance from the front *property line*. Security gates shall be constructed of an upgraded screening material that is at least 80% non-transparent.

~~(n)~~(m) Centre City Cumulative Trip Generation Rates

Centre City Trip Generation Rates are as specified in the City of San Diego Land Development Manual, Appendix N.

~~(o)~~(n) Transportation Demand Management (TDM)

To reduce single-occupant vehicle trips into the Centre City Planned District, *applicants* for proposed commercial and *hotel development* containing over 50,000 square feet of *gross floor area* shall achieve a minimum of 25 points by implementing *TDM* measures contained in Table 156-0313-D.

TABLE 156-0313-D: TRANSPORTATION DEMAND MANAGEMENT (TDM)

[No change in text.]

§156.0314 Sign Regulations

(a) *Sign Regulations*

(1) [No change in text.]

(2) Provisions

In addition to the requirements of the Land Development Code Chapter 12, Article 9, Division 8 and Chapter 14, Article 2, Division 12, the following provisions apply:

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

(D) Within the Centre City Planned District, the provision for Sign Category A of Chapter 14, Article 2, Division 12 shall apply, except in the Coastal Overlay Zone where Sign Category C shall apply.

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

§156.0315 Separately Regulated Uses

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

(d) Outdoor Use Areas

Outdoor Use Areas are subject to the following regulations:

(1) The hours of operation of an Outdoor Use Area shall be limited to no later than 10:00 p.m. Sunday through Thursday, and no later than 11:00 p.m. Friday through Saturday.

(2) Smoking and vaping is not permitted with an Outdoor Use Area, at any time. For the purpose of this section, the terms smoke, smoking, vape, and vaping have the same meanings as in Section 43.1001.

(3) Any establishment with an *Outdoor Use Area* located above the ground-level and/or that is greater than 350 square feet in area shall obtain a Neighborhood Use Permit in accordance with a Process Two.

~~(d)~~(e) *Outdoor activities*

Outdoor activities include a variety of community serving uses and events and may include the use of *structures* and small buildings. ~~Applicants~~ Applicants proposing the use of any *structures* or small buildings shall obtain all necessary permits in accordance with state and local regulations. *Outdoor activities* are subject to the following additional regulations and permits:

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

~~(e)~~(f) *Alternative Interim Uses* within Neighborhood Mixed Use Centers and along *Main Streets* and *Commercial Streets* are permitted upon approval of a Conditional Use Permit in accordance with Process Three, when the following *findings* are made:

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

The initial term for a Conditional Use Permit permitting *Alternative Interim Uses* shall not exceed a ten-year period. Extensions may be approved in accordance with Section 126.0114, but shall not exceed an additional ten-year period.

~~(f)~~(g) *Living Units.*

Living unit developments are permitted in the zones indicated in Table

156-0308-A subject to the following regulations:

(1) through (13) [No change in text.]

~~(g)~~(h) *Historical Resources*

All *development* proposals that may result in the alteration of an *historical resource*, or any site containing a ~~structure~~ structure over 45 years in age, shall be reviewed as provided in Chapters 11 through 14 of this Code.

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

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

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

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

~~(i)~~(j) *Social Services Institutions, Transitional Housing or Homeless Facilities*

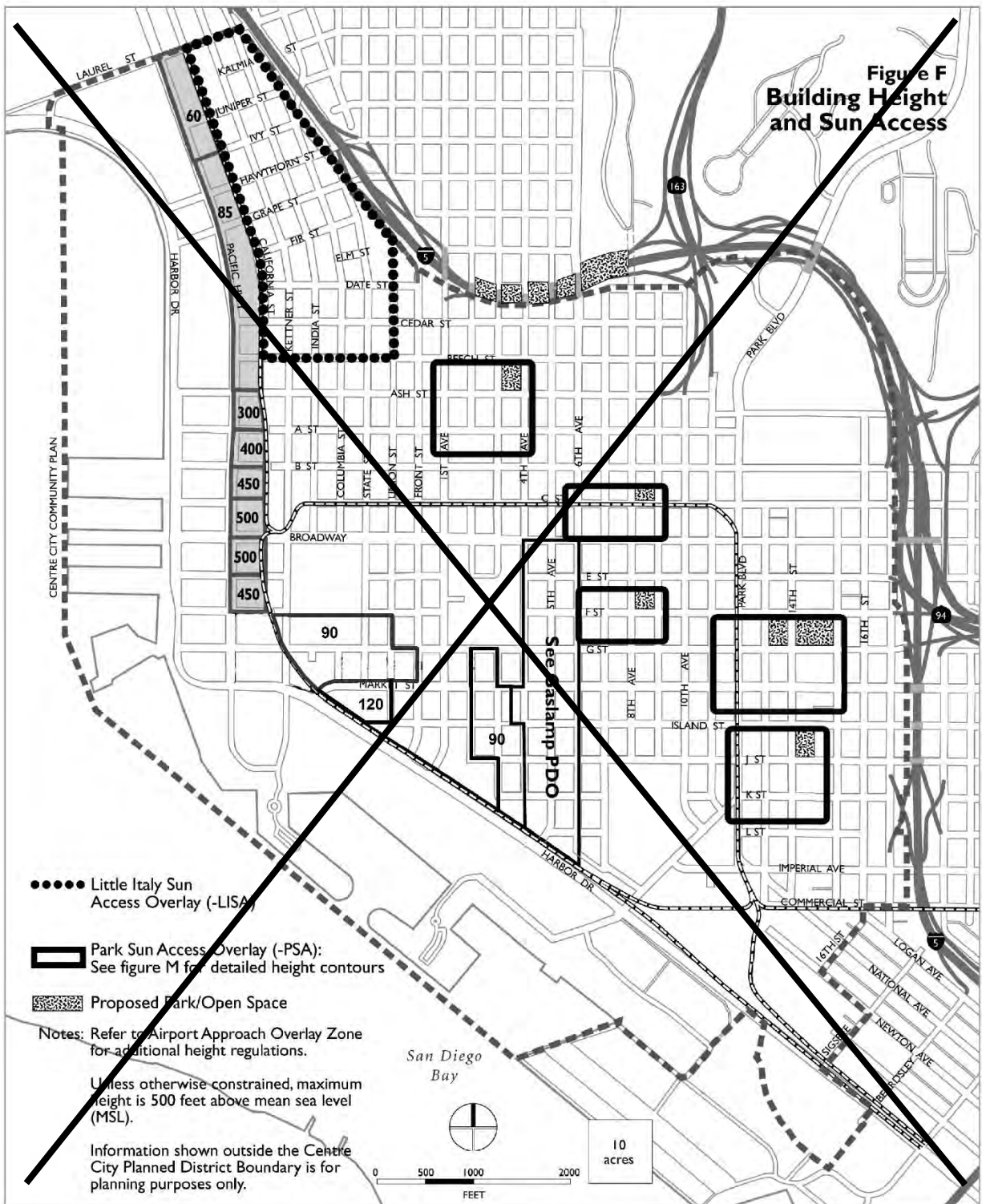
Applicants for a Conditional Use Permit for a *social service institution*, *transitional housing* or a homeless facility may request a modification to the standard *development* regulations, including separation requirements, found in Chapter 14 of this Code. Any such request may be granted by the decision maker if at least one of the following *findings* is made:

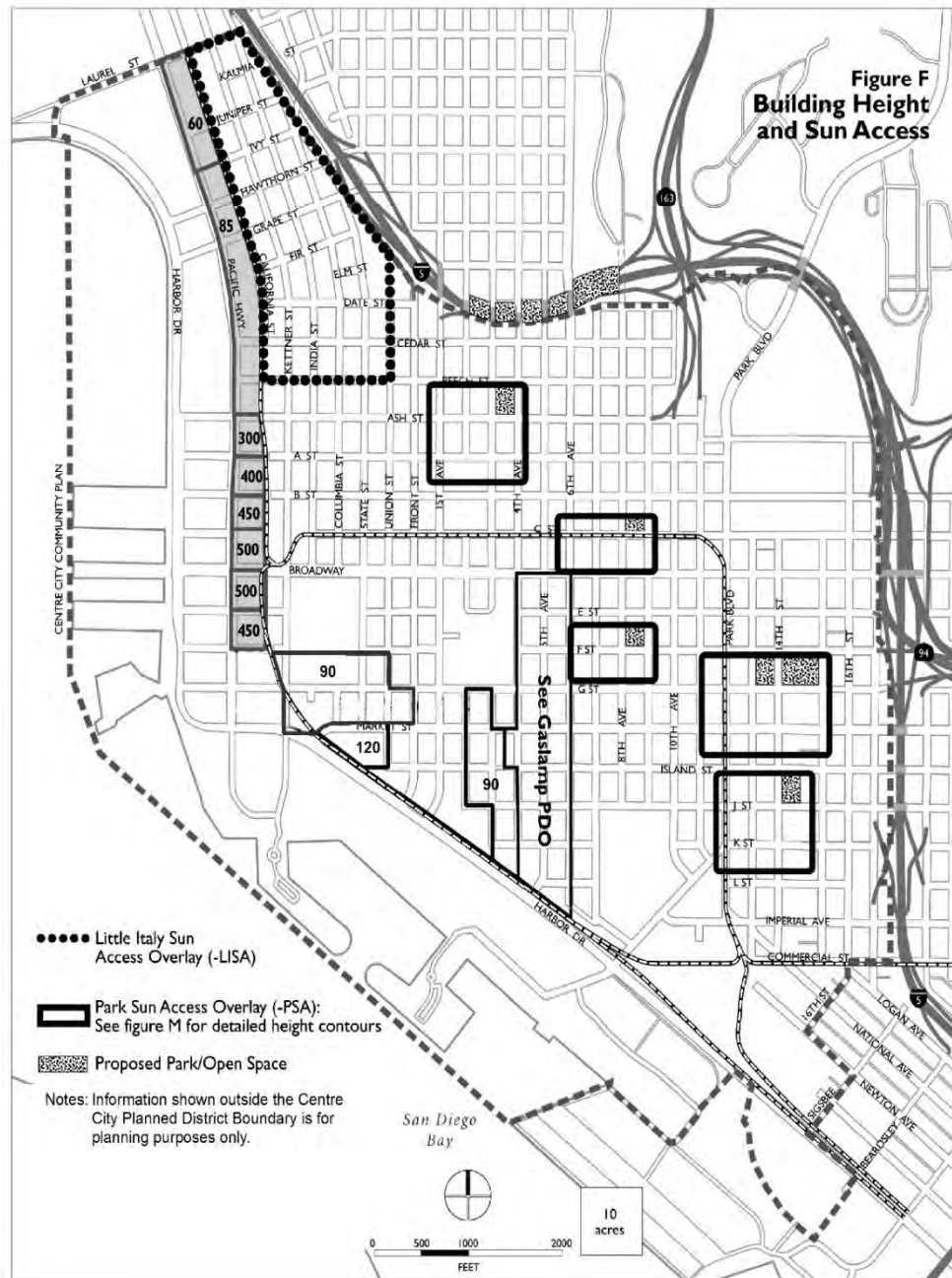
(1) through (2) [No change in text,]

~~(j)~~(k) *Reasonable Accommodations* [No change in text.]

Figures A through E

[No change in text.]





Figures G through H

[No change in text.]

Figures J through N

[No change in text.]

§157.0201 Gaslamp Quarter Approvals and Permits

(a) [No change in text.]

(b) Permits

(1) [No change in text.]

(2) Neighborhood Use Permit

(A) A Neighborhood Use Permit, in accordance with Process

Two, is required for the following uses:

(i) Sidewalk cafés in the *public right-of-way* or any other outdoor area for eating or drinking on private property used in connection with a commercial establishment; ~~or~~

(ii) Deviations to parking requirements pursuant to Section 157.0401(f); or

(iii) Restaurants, including brew pubs or micro-breweries, engaged in the sale of alcoholic beverages for on-site consumption during business hours when made-to-order food products are not available, as provided in Section 157.0305(a)(2).

(B) [No change in text.]

(3) Conditional Use Permit

(A) A Conditional Use Permit, in accordance with Process Three, is required for the following uses:

- (i) Establishments providing live music, entertainment or dancing, ~~whether or not in conjunction with the sale of alcohol;~~ as provided in Section 157.0305(c)(2) and (4);
- (ii) Establishments engaged in the sale of alcoholic beverages for consumption off the *premises*; and
- (iii) ~~Restaurants and other permitted uses specified in Section 157.0305(a)(2) which include the sale of alcoholic beverages for consumption on the~~
~~*premises*; or~~
- ~~(iv)~~(iii) Ground floor uses over 10,000 square feet.

(B) [No change in text.]

(4) [No change in text.]

§157.0305 Separately Regulated Uses

(a) Alcoholic Beverage Sales for On-Site Consumption

(1) [No change in text.]

(2) ~~A Conditional Use Permit~~ Neighborhood Use Permit shall be required for ~~the following restaurants or other permitted uses which include the sale of alcoholic beverages for on-site consumption:~~

- (A) ~~R~~estaurants, including brew pubs or micro-breweries, engaged in the sale of alcoholic beverages for on-site consumption during business hours when made-to-order food products are not available.
 - (B) ~~E~~ntertainment establishments, as defined in Section 33.1502.
- (3) Uses involving the sale of alcoholic beverages in the Gaslamp Quarter Planned District shall be governed by the following additional requirements:
- (A) ~~A~~ll entertainment establishments, as defined by Section 33.1502 must obtain and comply with all applicable permits, including a City of San Diego Police permit;
 - (B) ~~S~~ound and amplification equipment shall be monitored during business hours to ensure that audible noise remains at acceptable levels in accordance with Chapter 5, Article 9.5 of the San Diego Municipal Code. Noise levels shall be in conformance with the noise abatement and control regulations set forth in Chapter 5, Article 9.5 of the San Diego Municipal Code; and
 - (C) ~~I~~f the establishment where live music entertainment or dancing is proposed to occur is within the same building as, or is immediately adjacent to, residential uses, an acoustical study shall be prepared by a qualified acoustical engineer;

~~hired by the applicant, which shall evaluate potential impacts to the residential occupants. Based on the results of the acoustical study, appropriate mitigation measures may be required.~~

- (4) ~~Hotels, motels, or any other lodging establishment where the sale of alcoholic beverages is *accessory* or incidental to the *primary* operation of the establishment shall not be required to obtain a Conditional Use Permit if any of the uses described in Section 157.0305(a)(2) are completely enclosed within the building and accessed solely through a lobby area.~~

(b) [No change in text.]

(c) Live entertainment

Live entertainment means live performances by musicians, singers, dancers, disc jockeys, or similar entertainers, and may include dancing by customers of an establishment. The provision of live entertainment shall comply with Chapter 3, Article 3, Division 15 of this Code, as applicable, and shall be subject to the following additional regulations and permits:

(1) Acoustic live entertainment

- (A) Restaurants which offer made-to-order food products during all business hours may offer performances by live acoustic musicians, dancers, or similar performers as an *accessory use* up to 11:00 p.m., if the entertainment is not audible outside of the establishment.

(B) Any other establishment offering performances by live acoustic musicians, dancers, or similar performers shall obtain a Neighborhood Use Permit in accordance with Process Two. The performances shall not be audible outside the establishment.

(2) Non-acoustic live entertainment

(A) Any establishment offering performances within an enclosed building by live non-acoustic musicians, disc jockeys, or patron dancing, shall obtain a Conditional Use Permit in accordance with Process Three.

(B) If located upon or adjacent to a *premises* containing residential land uses, the establishment shall provide a noise impact analysis to the decision-maker for consideration before approval of the Conditional Use Permit. The noise impact analysis shall be prepared by a qualified acoustical engineer and shall evaluate potential noise and vibration impacts to the surrounding neighborhood.

(3) Hotels and *motels* offering live entertainment in an area completely enclosed within the building and accessed solely through the lobby area are not subject to Section 156.0315(c)(1) or (2), if the live entertainment is not audible outside of the building.

- (4) Live entertainment located outside of an enclosed building
Establishments offering live entertainment outside of an enclosed
building shall obtain a Conditional Use Permit in accordance with
Process Three. The establishment shall provide a noise impact
analysis to the decision-maker for consideration before approval of
the Conditional Use Permit. The noise impact analysis shall be
prepared by a qualified acoustical engineer and shall evaluate noise
and vibration impacts to the surrounding neighborhood.
- (5) Sound and amplification equipment associated with live
entertainment shall conform to the noise abatement and control
regulations of Chapter 5, Article 9.5 of this Code.

~~(e)~~(d) Uses Containing Outdoor Areas for Eating or Drinking

Establishments with outdoor areas for eating or drinking located either on private property or in the *public right-of-way* in connection with a commercial establishment shall be required to obtain a Neighborhood Use Permit in accordance with Process Two.

~~(d)~~(e) Ground Floor Uses Over 10,000 Square Feet

The following findings must be made for approval of a Conditional Use Permit for uses occupying more than 10,000 square feet on the ground floor:

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

§157.0401 Off-Street Parking Requirements

- (a) ~~New developments located on sites that are greater than 10,000 square feet shall comply with the parking requirements established in Table 157-0401-A. Reasonable accommodations to the parking requirements shall be granted if necessary to afford disabled persons equal housing opportunities under state or federal law, in accordance with Section 131.0466. There shall be no required minimum parking for any uses in the Gaslamp Quarter Planned District. The maximum parking requirements as outlined in Table 157-0401-A shall apply.~~
- (b) ~~New developments on sites that are 10,000 square feet or less shall not be required to provide off-street parking.~~
- (c) ~~All required parking shall meet the parking regulations set forth in Section 142.0560, including Table 142-05K and Table 142-05L, of the Land Development Code.~~
- (d) ~~Existing buildings converted from one permitted use to another permitted use shall not be required to provide additional parking other than what was required under the original use.~~
- (e) ~~Driveway curb cuts shall not be permitted on Fifth Avenue.~~
- (f) ~~The City Manager may grant a deviation from the parking requirements for projects which have their only public street access along Broadway in accordance with Process Two.~~
- (g)(b) Bicycle Storage. Secured bicycle storage shall be provided at a ratio of one area reasonably sized to accommodate one bicycle for every five

dwelling units. Bicycle storage areas shall be enclosed with access restricted to authorized persons. Any common storage area to serve more than one *dwelling unit* shall provide racks or fixtures on which to lock individual bicycles.

~~(h)~~(c) Provided Parking. If one or more *off-street parking spaces* are provided in a *development*, then the following requirements apply:

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

(5) Reasonable accommodations to the parking requirements shall be granted if necessary to afford disabled persons equal housing opportunities under state and federal law, in accordance with Section 131.0466.

~~(i)~~(d) Maximum Parking. *Off-street parking spaces* in tandem or within a mechanical automobile lift are not counted as additional *off-street parking space*. A *development* may exceed the maximum *off-street parking spaces* identified in Table 157-0401-A if all of the following apply:

~~(1)~~ ~~The development floor area ratio is no less than 80 percent of the base maximum floor area ratio; and~~

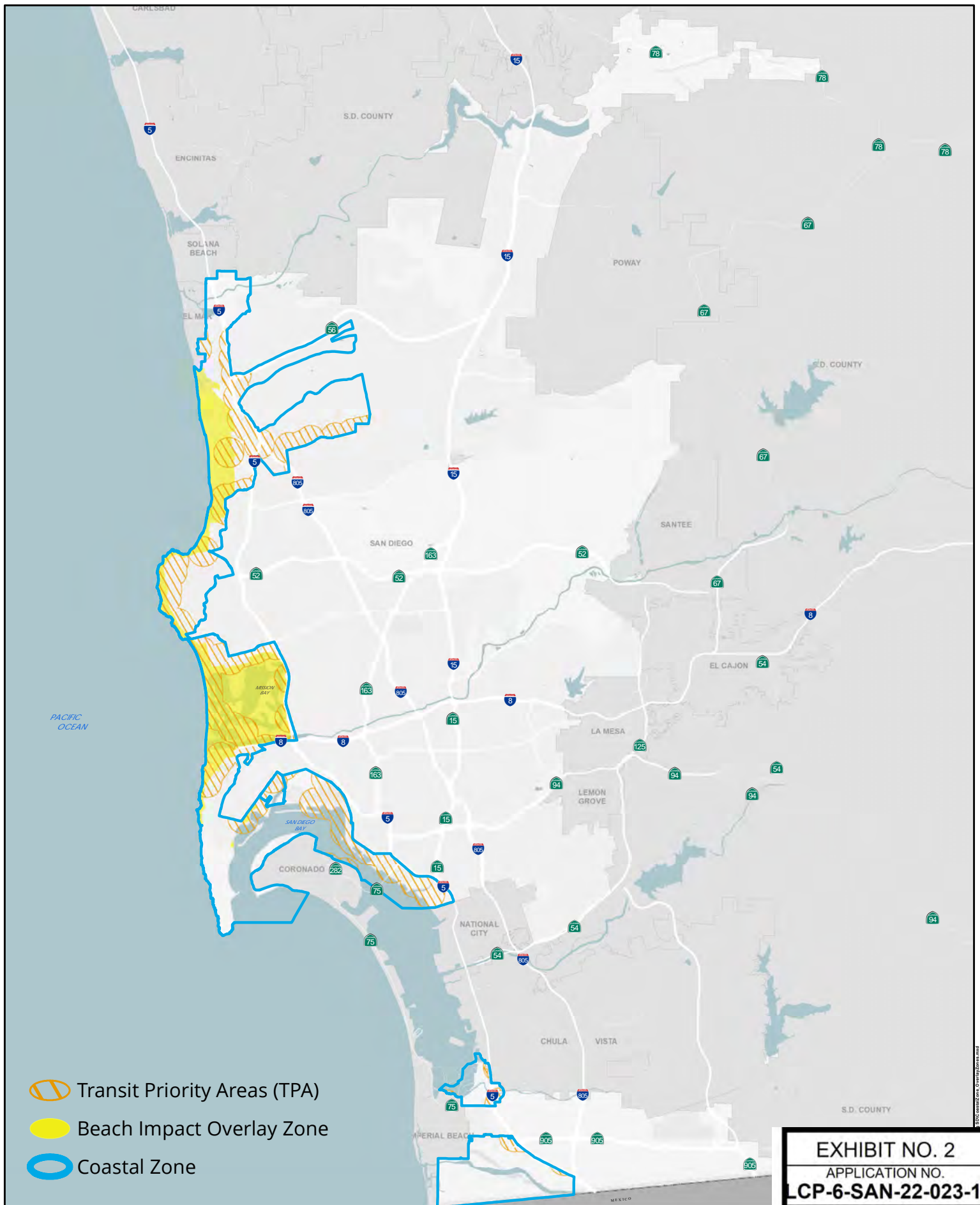
~~(2)~~(1) At least 20 percent of the total *off-street parking spaces* provided include electric vehicle supply equipment for the ready installation of charging stations; ~~and~~

~~(3)~~(2) The *development* provides transportation amenities in accordance with Section 142.0528(c) worth at least four points; and

~~(4)(3) All Any off-street parking spaces that exceed the allowed~~
~~maximum~~ shall be within an underground parking garage ~~on the~~
~~same premises.~~

TABLE 157-0401-A: OFF-STREET PARKING REQUIREMENTS			
Use Category	Minimum	Maximum	Notes
Office	1.5 spaces per 1,000 sf	N/A <u>1.5 spaces per</u> <u>1,000 sf</u>	Projects containing less than 50,000 square feet of office space are exempt.
Commercial/Retail	1.5 spaces per 1,000 sf	N/A <u>1.0 spaces per</u> <u>1,000 sf</u>	Projects containing less than 30,000 square feet of commercial/retail space are exempt.
Hotel	0.3 spaces per room	N/A <u>0.3 spaces per</u> <u>room</u>	Projects containing less than 25 guest rooms are exempt.
<i>Dwelling Units</i> including <i>Permanent</i> <i>Supportive Housing</i>	0	1.0 <u>spaces per</u> <u>dwelling unit</u>	

CLN:als
12/10/2020
01/10/2021 Cor. Copy
Or. Dept: Planning
Doc. No.: 2561638



CALIFORNIA COASTAL COMMISSION

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To: Planning Directors of Coastal Cities and Counties
From: Dr. Kate Huckelbridge, Executive Director, California Coastal Commission
Date: June 30, 2023

RE: Implementation of Assembly Bill 2097 (Friedman) Relating to Minimum Parking Requirements Near Major Transit Stops

I. Introduction

Effective January 1, 2023, [Assembly Bill \(A.B.\) 2097](#) (Friedman, Ch. 459, Stats. 2022) prohibits public agencies, including the Coastal Commission and local governments, from imposing or enforcing minimum automobile parking requirements on most development projects located within one-half mile of a major transit stop. This legislation may help reduce vehicle miles traveled and encourage denser infill development consistent with some of the goals of the Coastal Act. However, the law will require the Commission and local governments to implement the Coastal Act's mandate to maximize access to the coast and to coastal recreation areas in a new way. Historically, the Commission and local governments implementing their Local Coastal Programs (LCPs) have often imposed minimum parking requirements to ensure that development is consistent with the public access and recreation policies of the Coastal Act and certified LCPs. These public access and recreation policies continue to apply, but imposition of such minimum parking requirements is no longer allowed where AB 2097 applies.

This memorandum discusses how the Commission and local governments can impose other types of conditions in these areas to ensure projects and LCPs are consistent with the public access and recreation policies of the Coastal Act and certified LCPs. Still, AB 2097 is likely to cause public access impacts in the coastal zone that will be difficult to fully mitigate. It will also likely have impacts far outside the transit-rich areas it directly applies to, as inland residents and visitors may have a harder time traveling to access the coast. The public access and recreation impacts of new development that does not provide public parking can be most effectively addressed through regional and local planning, rather than at a project level review. Local governments will need to plan for and develop alternative ways for the public to access the coast from across their jurisdictions, such as through investing in public transit and developing programs that facilitate public access by, for example, creating free shuttles to the coast and additional public parking facilities. On a project level, special conditions that facilitate public transit, alternative transportation, and additional public access opportunities, such as requiring bicycle parking or in-lieu fees, may mitigate the public access and recreation impacts of development. This memorandum includes examples of LCP policies and project conditions that the Commission and local governments may impose to facilitate public access and recreation in a manner consistent with this new law.

EXHIBIT NO. 3

APPLICATION NO.

LCP-6-SAN-22-23-1

Executive Director

memo re AB 2097



California Coastal Commission

II. Overview of AB 2097 Requirements

AB 2097 prohibits public agencies from imposing or enforcing any minimum automobile parking requirements on residential, commercial, and other development projects located within one-half mile of a major transit stop (Gov. Code § 65863.2(a)).

a. Who

The new law applies to public agencies, which are defined to include “the state or any state agency, board, or commission, any city, county, city and county, including charter cities, or special district, or any agency, board, or commission of the city, county, city and county, special district, joint powers authority, or other political subdivision” (Gov. Code § 65863.2(e)(4)). Accordingly, AB 2097 prohibits both local governments and the Coastal Commission from imposing or enforcing minimum parking requirements on development projects located within one-half mile of a major transit stop.

b. What

AB 2097 prohibits public agencies from imposing or enforcing any minimum automobile parking requirements on residential, commercial, and other development projects located within one-half mile of a major transit stop (Gov. Code § 65863.2(a)). However, public agencies can require minimum parking standards in any of the following cases:

- Projects where any portion is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, unless a portion of a housing development project is designated for use as a certain kind of residential hotel (Gov. Code § 65863.2(e)(6)).
- Commercial projects where (a) the prohibition on imposing minimum parking requirements would conflict with an existing contractual agreement of the public agency that was executed before January 1, 2023, and (b) all of the required commercial parking is shared with the public (Gov. Code § 65863.2(h)(1)).¹
- When a local government makes written findings that not imposing or enforcing minimum automobile parking requirements on a development would have a substantially negative impact on: (1) its ability to meet its Regional Housing Needs Assessment (“RHNA”) allocation for low- and very low income households; (2) its ability to meet certain special housing needs for the elderly or persons with disabilities; or (3) existing residential or commercial parking within one-half mile of the housing development project (Gov. Code § 65863.2(b)).² This exception to the prohibition does not apply to housing development projects that: (1) dedicate a minimum of 20 percent of the total number of housing units to very low, low-, or moderate-income households, students, the elderly, or persons with disabilities; (2) contain less than 20 housing units; or (3) are subject to parking reductions based on the provisions of any other applicable law (Gov. Code § 65863.2(c)).

¹ This prohibition on the imposition of parking requirements also does not apply to an existing contractual agreement that is amended after January 1, 2023, provided that the amendments do not increase commercial parking requirements (Gov. Code § 65863.2(h)(1)).

² This exception only applies to a city or county’s imposition or enforcement of minimum parking requirements (Gov. Code § 65863.2(b)).

In addition, public agencies must continue to impose the following existing parking requirements:

- Event centers must provide parking for employees and other workers when required by local ordinance (Gov. Code § 65863.2(d)).
- New multifamily residential and nonresidential development is required to provide electric vehicle (EV) supply equipment parking spaces and parking spaces that are accessible to persons with disabilities that would have otherwise been required (Gov. Code § 65863.2(f)).

Although public agencies may not impose minimum parking requirements on development projects in designated areas, all Coastal Act and LCP provisions other than those requiring minimum automobile parking continue to apply in these areas, including provisions relating to protecting, enhancing, and maximizing public access and recreation opportunities. Accordingly, the Commission and local governments will need to ensure that development projects within one-half mile of major transit stops comply with these Coastal Act and LCP provisions in ways other than imposing minimum parking requirements. The new law also allows developers to voluntarily provide parking, and public agencies may approve projects with such voluntarily provided parking. If a project voluntarily provides parking, AB 2097 allows a public agency to require any of the following: (1) the parking include spaces for car share vehicles, (2) spaces be shared with the public, or (3) parking owners charge for parking (Gov. Code § 65863.2(g)). A public agency may not, however, require that voluntarily provided parking be provided to residents of a housing development free of charge (*Id.*). The law does not contain a similar restriction prohibiting an agency from requiring that voluntary parking be provided to the public free of charge. Voluntarily provided parking can be considered when analyzing whether a proposed project is consistent with the Coastal Act or LCP.

c. Where

AB 2097 only applies to projects located within one-half mile of a major transit stop (Gov. Code § 65863.2(a), (e)(5)). A “major transit stop” is a site containing: (1) an existing rail or bus rapid transit station;³ (2) a ferry terminal served by either a bus or rail transit service; (3) the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods; or (4) a major transit stop identified in the applicable regional transportation plan (Gov. Code § 65863.2(e)(5), Pub. Res. Code §§ 21155(b), 21064.3). A project is considered within one-half mile of an AB 2097 major transit stop if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop (Pub. Res. Code § 21155(b)).

³ A “bus rapid transit station” means a clearly defined bus station served by mass transit service that is provided by a public agency or by a public-private partnership that includes all of the following features: (1) full-time dedicated bus lanes or operation in a separate right-of-way dedicated for public transportation with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods; (2) transit signal priority; (3) all-door boarding; (4) fare collection system that promotes efficiency; and (5) defined stations (Pub. Resources Code, § 21060.2).

The new law did not create (or require creation of) maps or datasets indicating where major transit stops are located. Without a centralized dataset identifying the location of major transit stops, these stops will likely need to be identified on a case-by-case basis. Coastal Development Permit (CDP) applicants and/or local governments should submit information clearly demonstrating whether the project site or proposed LCP amendment area is located within one-half mile of a major transit stop. Some local governments or associations of governments may have maps that depict major transit stops or other helpful transit information in the area. The below map viewers may be a helpful place to start when evaluating projects and LCP amendments in certain areas:

- **San Diego:** The City of San Diego maintains a [map viewer](#) that identifies transit priority areas (TPAs), which includes major transit stops in the City.⁴ The San Diego Association of Governments (SANDAG) also maintains a [map viewer](#) with various transit information, such as rapid bus routes and rail lines, and other transit information beyond an AB 2097 “major transit stop.”
- **Los Angeles:** The Southern California Association of Governments maintains a [map viewer](#) for the Los Angeles area that identifies “high quality transit areas”, which includes “major transit stops” (as defined above).⁵ In addition, the City of Los Angeles maintains a [map viewer](#) that identifies whether an address is eligible for AB 2097.
- **San Francisco Bay Region:** The Metropolitan Transportation Commission (MTC) [map viewer](#) for the San Francisco Bay Region identifies TPAs, which includes major transit stops in this area.⁶

Other metropolitan planning organizations (MPOs) and regional transportation planning agencies (RTPAs) may also have information relevant to the location of major transit stops.⁷

d. When

AB 2097 became effective on January 1, 2023.

e. Why

AB 2097 states that mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increase greenhouse gas emissions (Gov. Code § 65863.2(i)). As a result, the legislation states that

⁴ This map viewer may be broader than the area where AB 2097 currently applies, as the viewer also identifies AB 2097 major transit stops that are planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

⁵ This map viewer also includes “high quality transit areas” which could potentially be broader than an AB 2097 “major transit stop,” as these areas also include corridors with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. In addition, this map viewer is based on data from 2016 and may not reflect existing levels of transit service.

⁶ This map viewer may be slightly broader than the area where AB 2097 applies as the viewer (like the San Diego viewer) also identifies AB 2097 major transit stops that are planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan.

⁷ The contact information for MPOs and RTPAs is available on Caltrans’ website [here](#).

it must be interpreted in favor of the prohibition against imposing mandatory parking minimums (*Id.*).

Historically, land use agencies have required new development proposals to provide off-street parking spots for residents or users to avoid increased parking congestion and its associated impacts. The Coastal Commission and many local governments implementing their LCPs have imposed minimum parking requirements to ensure that new development is consistent with the policies of the Coastal Act and certified LCPs, including those relating to public access and recreation. In many areas, parking requirements have contributed to urban sprawl. Conflicts between the prioritization of pedestrian, bicycle, and other forms of transportation and parking requirements can occur in built-out areas where space is limited. AB 2097 could potentially lead to denser infill development and a reduction in vehicle miles traveled consistent with the goals of some Coastal Act policies such as Section 30250, which generally requires new development to be concentrated within, contiguous with, or near existing developed areas able to accommodate it, and Section 30253(d), which requires new development to minimize vehicle miles traveled. The statute's intent to reduce greenhouse gas emissions by reducing vehicle dependency is also consistent with Coastal Act Section 30253(c), which requires new development to meet air pollution control requirements imposed by the California Air Resources Board; Section 30604(h), which states that the Commission may consider environmental justice and the equitable distribution of environmental benefits statewide in permit actions; and Section 30270, which requires the Commission to take into account the effects of sea level rise, which is a direct consequence of greenhouse gas emissions and climate change, in its coastal resource planning and permitting activities.

However, AB 2097 is also likely to cause public access and recreation impacts in the coastal zone that will be difficult to fully mitigate. As discussed further below, the Coastal Act requires the Commission and local governments to protect access to our coastal shorelines and beaches. To a large extent, this access still relies on cars and parking along the coast. This is particularly the case for coastal visitors and inland residents that must travel far to reach the coast and cannot afford to live in coastal areas. AB 2097 only applies in areas with existing public transit, but it does not require that this transit be able to connect visitors and inland residents traveling from elsewhere to the coast. In the coastal zone, high costs of housing and historical exclusionary public policies and private practices such as refusing to finance home purchases for households of color and imposing deed restrictions that restricted sales of homes to certain groups based on race, creed, or color have excluded households of color and lower income households from owning and renting property on the coast.⁸ As a result, applying AB 2097 in the coastal zone may raise environmental justice concerns as lower income households and households of color are less likely than wealthy, white households to live on the coast, and thus may have more difficulty accessing the coast without adequate public parking.

⁸ Coastal Commission [Report on the Historical Roots of Housing Inequity and Impacts on Coastal Zone Demographic Patterns](#) (2022). See also the Coastal Commission's [Adopted Environmental Justice Policy](#).

III. Application in the Coastal Zone

Although AB 2097 prohibits the Commission and local governments from imposing minimum parking requirements on most types of development projects within one-half mile of major transit stops, the Coastal Act and certified LCPs otherwise continue to apply in these areas. Local governments should update their LCPs to conform with AB 2097 and require alternative kinds of mitigation where a project's lack of parking contributes to adverse impacts to coastal resources.

a. Public Access and Recreation Provisions of the Coastal Act

A primary goal of the Coastal Act is to maximize public access to the coast, as reflected in Sections 30001.5(c), 30210, and the other public access and recreation sections of the Coastal Act. Section 30210 of the Coastal Act requires that maximum public access and recreation opportunities to the coast be provided, consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. The Commission has found that the direction of Section 30210 "to maximize access represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect: it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized."⁹ In furtherance of this goal, Section 30500 of the Coastal Act requires that each LCP contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

A number of Coastal Act policies are relevant when analyzing the impacts that new development may have on public parking near the coast. New development in the coastal zone cannot interfere with existing public access, including in terms of parking (Section 30211); must generally provide public access from the nearest public roadway to the shoreline and along the coast (Section 30212); and must be located within or near existing developed areas able to accommodate it or in other areas with adequate public services where it will not have significant adverse effects, either individually or cumulatively, on coastal resources, including public access and recreation (Section 30250). Lower cost visitor and recreational facilities, which could include public visitor parking areas, are required to be protected, encouraged, and, where feasible, provided (Section 30213). Oceanfront lands suitable for recreational use, which could include visitor parking areas, are required to be protected for recreational use and development, and upland areas necessary to support coastal recreational uses are required to be reserved for such uses, where feasible (Sections 30221 and 30223, respectively). Further, Coastal Act Section 30252 provides that the location and amount of new development should maintain and enhance public access to the coast by, among other means, providing adequate parking facilities or providing substitute means of serving the development with public transportation. Section 30212.5 of the Coastal Act requires that wherever appropriate and feasible, public facilities, including parking areas or facilities, must be distributed throughout an area to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area. Section 30214 allows for public access policies to consider the unique characteristics of new development, and to allow for public access

⁹ [City of Carpinteria Transportation Improvements LCP Amendment](#) (No. LCP-4-CPN-15-0018-1, 2015).

to be tailored in an appropriate manner considering that context. Finally, through Section 30604(h), the Commission may consider the equitable distribution of environmental benefits throughout the state, including parking to access the coast.

New development near the coast can negatively impact public access and recreation by increasing the demand for automobile parking without providing sufficient additional parking to offset this increase in demand, thus leading to fewer parking spaces available to the public for coastal access. This is particularly important for visitors and inland residents who do not live near the shoreline, for whom a trip to the beach often means using a car to transport people, pets, food, drink, and beach equipment to shoreline destinations, particularly when there is a dearth of transit alternatives to reach the beach. To ensure consistency with the public access and recreation provisions of the Coastal Act outlined above, the Commission has imposed minimum automobile parking requirements on proposed development such as requiring a minimum number of onsite parking spaces be provided or maintained by new residential development so that residents do not reduce the availability of on-street parking for visitors accessing the coast and nearby beaches.¹⁰ The Commission has also imposed minimum automobile parking requirements in modifications to LCP policies for consistency with the public access and recreation provisions of the Coastal Act. For example, in recent LCP amendments proposed to update policies consistent with new state Accessory Dwelling Unit (ADU) laws, the Commission has typically imposed minimum onsite parking requirements for new ADUs located near prime visitor destinations with constrained on-street public visitor parking.¹¹ In addition, the Commission often certifies proposed LCP provisions that require that new development meet minimum automobile parking requirements.

b. Alternatives to Imposing Minimum Automobile Parking Requirements

Local governments and the Commission may no longer apply LCP policies or project conditions that require minimum automobile parking in areas designated by AB 2097. But the new law does not otherwise change the Commission's or local governments' authority to implement the Coastal Act and LCP provisions, including as it relates to visitor public parking needs. The Commission and local governments must find other ways to ensure that new development complies with the Coastal Act and LCPs. In this way, the Coastal Act and AB 2097 can be harmonized to the maximum extent feasible so that both laws apply in the coastal zone.

When analyzing projects and LCP updates, local governments should consider the impacts that proposed development located within one-half mile of a major transit stop may have on public access and recreation, and, for LCPs, what strategies can adequately mitigate the impacts of development on access and recreation consistent with the Coastal Act. Some questions to explore may include:

- How much public parking is currently available and what is the current demand for public parking?

¹⁰ See, for example, [Chen Gallagher](#) (App. No. 5-21-0522, 2021); [Reed](#) (App. No. 5-20-0656, 2021); and [Lloyd](#) (App. No. 5-21-0756, 2022).

¹¹ See, for example, [Santa Cruz ADU LCP Amendment](#) (No. LCP-3-STC-20-0015-1-Part A, 2021) and [San Luis Obispo County ADU LCP Amendment](#) (No. LCP-3-SLO-20-0059-2, 2022).

- How might the proposed development or LCP policies impact supply and demand for public parking?
- Whether alternative means of transportation to the coast that support public access and recreation are available?
- Whether a public access improvement program exists or can be established?
- Where coastal visitors are coming from, how visitors get to the coast, and what demographics visitors represent?
- Whether there is a disproportionate impact on environmental justice communities¹² or people with disabilities in accessing the coast, and whether there are measures available to ensure access is equitable?

This information may help frame what alternatives (e.g., public transit, car share, bikes, free shuttles) are available to maximize public access and recreational opportunities, and which Coastal Act and LCP provisions may be relevant for the analysis. Where this information does not exist or is difficult to obtain, monitoring and adaptive management LCP policies may be helpful to develop this information.¹³

Planning. Like the Commission, local governments can no longer impose minimum automobile parking requirements on most types of development projects located within one-half mile of a major transit stop. As a result, local governments must consider alternative ways of implementing the public access and recreation provisions of the Coastal Act and LCPs, such as through LCP policies that encourage the use of public transit and alternative forms of transportation in areas near major transit stops. LCPs could, for example, plan for and encourage:

- Increased public transit to visitor destination areas, such as increased transit service areas or routes, shorter intervals of service, additional bus stops, and park-and-ride lots and shuttles
- Free or low cost shuttles connected to public park-and-ride facilities that provide appropriate design (e.g., to meet the needs of beach visitors and people with disabilities) and adequate intervals and duration of service to public access and recreational areas
- Public access in-lieu/development fee programs (example provided below) intended to improve, protect, and enhance public access and recreation opportunities for people of all abilities and incomes

¹² In this memo, the terms “underserved communities” and “environmental justice communities” are used interchangeably with the term “communities of concern.” All these terms refer to low-income communities, communities of color, and other populations with higher exposure and/or sensitivity to adverse project impacts due to historical marginalization, discriminatory land use practices, and/or less capacity to mitigate adverse impacts.

¹³ See, for example, the [City of Del Mar Parking Adjustments LCP Update](#) (No. LCP-6-DMR-21-0081-2, 2023), which reduced parking requirements for certain commercial uses in several areas throughout City. Commission modifications authorized the change for a limited term of eight years and required creation of an ongoing Parking Management Program that must include an inventory of existing public parking areas, analyze parking occupancy and demand, and provide recommendations to address how parking programs and services should be adjusted to maximize access to the shoreline.

- Complete streets designs and the integration of multi-modal transportation improvements, such as bike lanes and bike parking
- Development of additional public parking facilities and opportunities near coastal access and recreation areas
- Affordable Electric Vehicle (EV) charging infrastructure
- Elimination and/or prohibition of preferential parking programs for residents
- Development of low-income parking pass programs
- Regulations on public parking that encourage visitor-serving uses, such as time limits in some cases
- Shared parking arrangements that encourage or require private parking areas to be made available for public parking during times when these parking areas are underutilized
- Employee transit subsidy programs, such as reimbursement for use of alternative transportation, carpooling, or park-and-ride services¹⁴
- Transportation demand management programs, such as providing transit passes to workers, students, or residents
- Adequate bicycle parking and lockers
- Micromobility programs, such as bicycle and electric scooter rentals
- Meaningful and accessible outreach and public education on public access opportunities and alternative transportation programs¹⁵
- Other means of providing public access to and along the coast

One way for local governments to implement the public access and recreation provisions of the Coastal Act and LCPs without imposing or enforcing minimum parking requirements is to establish in-lieu fee programs that mitigate the negative impacts of development on public access and recreation. Such fees can be used to improve a variety of public access and recreation opportunities, including by providing additional parking opportunities where appropriate. For example, the City of Laguna Beach has an in-lieu parking certificates program that allows developers to pay a fee in-lieu of providing public parking, which is used to create additional public parking and to improve public transit.¹⁶ In addition to this program, the City has actively encouraged multi-modal transportation, provides a free trolley service, and runs a pilot project that allows for a reduction in parking requirements when a proposed use provides for and promotes the use of alternative modes of transportation such as free shuttles, ride-sharing, carpools, public transit, bicycles and walking. As another example, the City of Hermosa Beach uses development fees to improve public access and recreation opportunities, including public parking. The Commission has conditioned several projects from Hermosa Beach that were unable to provide adequate onsite parking spaces on payment of a fee to the City to offset public access impacts of the projects.¹⁷ Local governments should analyze whether in-lieu fees that fund public access programs that use their funds solely to pay for automobile parking

¹⁴ Though see Cal. Health & Safety Code § 40717.9, which limits public agencies' ability to impose employee trip reduction programs.

¹⁵ See, for example, [Orange County Parks](#) (5-07-370-A2).

¹⁶ See LCP Amendment No. [LCP-5-LGB-19-0139-1](#).

¹⁷ See, for example, [Franco](#), 5-20-0597; [1429 Hermosa, LLC](#), 5-13-0717; [B&J Capital Group Investments](#), 5-20-0181.

improvements are consistent with AB 2097, and whether public access programs that fund other public access improvements in addition to public parking could more effectively maximize public access and recreation.

Some examples of certified LCP policies that encourage alternative forms of transportation are listed below.

- [City of Encinitas Bicycle and Pedestrian Connectivity LCP Update \(No. LCP-6-ENC-19-0158-3, 2020\)](#): Required new development to add bicycle and pedestrian interconnection opportunities between adjacent land uses through dedication of an easement. Application of this requirement is based on several factors relating to feasibility, such as topography, adjacent land uses, existing physical barriers, and access to existing trails and public access points.
- [City of San Diego Complete Communities LCP Update \(No. LCP-6-SAN-21-0033-1\)](#): Added Complete Communities program that included an optional Housing Solutions program to increase housing production by removing regulatory barriers and granting development incentives to projects that incorporate affordable housing and neighborhood-serving infrastructure amenities within TPAs; and a mandatory Mobility Choices requirement for development to fund or provide amenities and active transportation infrastructure designed to reduce Vehicle Miles Traveled (VMT), or pay an in-lieu fee.
- [City of Morro Bay Comprehensive LCP Update \(No. LCP-3-MRB-21-0047-1, 2021\)](#): Added LUP policies emphasizing public transit, active transportation, and pedestrian and bicycle amenities particularly in waterfront and downtown areas.
- [City of Half Moon Bay Downtown Revitalization LCP Update \(No. LCP-2-HMB-20-0019-1, 2020\)](#): Reduced parking requirements in certain mixed-use and residential zoning districts in the City, as supported by parking demand studies, and implemented strategies to promote a more pedestrian-oriented active downtown area.

Unlike individual projects, LCPs can help provide a vision and plan for alternative means of access and transportation throughout a local jurisdiction. Policies and programs that may reduce the public access impacts resulting from scarce public parking in coastal areas, such as new or increased public transit and multimodal options, are often better addressed in LCPs rather than on a project-by-project basis. Accordingly, local governments should update their LCPs to protect and maximize public access and recreation in ways other than minimum automobile parking requirements in areas where AB 2097 applies.

Permitting. In some cases, a project applicant may voluntarily propose adequate parking, alternative modes of transportation, or other project components that fulfill the requirements of the Coastal Act and LCPs. In other cases, the Commission and local governments will need to impose special conditions other than minimum parking requirements that allow the project to be consistent with the Coastal Act and LCP public

access and recreation provisions.¹⁸ Some examples of conditions other than minimum parking requirements that the Commission has imposed to make a project consistent with the public access and recreation provisions of the Coastal Act or relevant LCPs include:

- **Public transit and alternative transportation conditions.** The Coastal Act emphasizes the importance of public transit and alternative means of transportation in facilitating public access and reducing VMT. Coastal Act Section 30252 provides that:

the location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

In addition, Section 30253 requires new development to minimize energy consumption and VMT and to meet air pollution control requirements, which can include the facilitation of public and alternative means of transportation. AB 2097's prohibition on imposing minimum parking requirements only applies in areas within one-half mile of major transit stops. Accordingly, projects in these areas are more likely to be able to mitigate their public access and recreation impacts through public and alternative transportation measures than projects in areas with more limited public transit. It may not be feasible, however, to condition single-family residences and other types of smaller residential development on the provision of public or alternative transportation measures that must be coordinated across a large area to work effectively (e.g., bus, bike, or rail infrastructure), unless a local government or other entity has a program that can manage and coordinate the required public and alternative transportation measures. Some examples of CDPs that mitigated for public access impacts through support or development of public and alternative transportation options—such as transportation demand management programs, bicycle parking and infrastructure, support for public transit, and reduced rates for car-free hotel rooms—are below.

- [McKinley Family Trust \(App. No. 5-20-0598, 2021\)](#): Conversion of existing retail space to restaurant located approximately 200 feet from beach;

¹⁸ In some circumstances, a local government may still impose minimum automobile parking requirements when it makes written findings that not imposing or enforcing minimum automobile parking requirements on a development project would have a substantially negative impact on existing residential or commercial parking within one-half mile of a housing development project or for the other reasons specified in AB 2097 (Gov. Code § 65863.2(b)).

mitigated impacts on public access by applicant's proposal to contribute \$3,000 annually to the City of San Clemente to fund multi-modal access (a portion of which will be used to fund two new metered public parking spaces in the vicinity), and through a Transportation Demand Management Program (TDMP) that included reimbursing all employees for 100% of the public transportation fares incurred to travel to and from work and an employee education program informing employees of public transit options, ridesharing, and bicycle infrastructure nearby with the aim of reducing the need for on-site parking at the project site.

- [Franco \(App. No. 5-20-0597, 2021\)](#): Conversion of existing apartment complex with no on-site parking into a new hotel with two parking spaces located less than 350 feet from the beach; mitigated impacts to public access by applicant's proposal and special conditions requiring a TDMP that included 12 bicycles provided on-site to hotel guests at no cost, a new 16-bicycle rack within the City of Hermosa Beach's right of way, free transit passes to hotel employees, rooms provided to guests who arrive at the hotel without an automobile at a 10% discount, and two rooms always designated as "car-free," in addition to a \$28,900 in-lieu fee paid to the City for each required parking space not provided on-site..
 - [Street Retail West II, LP \(App. No. 5-20-0522, 2021\)](#): Conversion of existing retail structure with no onsite parking into a recreational fitness center located 0.2 miles from the beach and near high quality transit options; mitigated impacts to public access through proposed TDMP that included reimbursing all employees 100% of public transportation fares, provision of lockers and showers to employees and customers who choose alternative forms of transportation to and from the premise, and inclusion of an information center at the front desk to publicize the TDMP, and City of Santa Monica-required in-lieu fee for bicycle parking.
 - [Ocean Avenue, LLC \(App. No. 5-21-0139\)](#): Redevelopment of an existing hotel with 103 on-site parking spaces into a new mixed-use development with 428 on-site parking spaces; mitigated impacts to traffic congestion and parking in visitor-serving downtown area with a new wayfaring plan and included special conditions requiring a TDMP that included monetary incentives and free transit passes for carpooling employees; discounts for residents that do not require a parking spaces, 342 bicycle parking spaces, and 43 electrical vehicle charging spaces. The TDMP included surveys to determine whether vehicle miles traveled had been successfully lowered.
- **Public Access and Recreation Fees.** In appropriate cases, a public access and recreation fee could be imposed as mitigation for development that will negatively impact public access and recreation, including by increasing demand for public parking near coastal access areas. A fee that is paid into an established public access and recreation program may be able to mitigate part or all of these impacts. Such fees might be held and managed by a state agency (e.g., Coastal Conservancy) or local government, nonprofit, or other third party. The Commission has conditioned projects on payment of a fee to support public access and recreation improvements in combination with other mitigation, such as transportation demand management programs, in several cases where the

development would negatively impact public parking near coastal access areas.¹⁹ If a mitigation fee is imposed, findings for project approval would need to demonstrate that the required mitigation will be related to (i.e., has a nexus with) the project's impacts and is proportional to that impact. Findings should also describe how the Coastal Act or LCP requires maximization of public access and recreation opportunities even though minimum parking requirements may not be imposed, and how the mitigation will address the project's impacts without minimum parking requirements. Local governments should work with their legal counsel to ensure that any such findings and public access and recreation programs appropriately harmonize the Coastal Act, LCPs, and AB 2097.

- **EV Infrastructure and Accessible Parking Spaces.** The Commission has approved many projects that provide accessible parking and has required EV infrastructure in projects, such as large commercial projects, with public access and recreation impacts.²⁰ AB 2097 does not prohibit public agencies from imposing requirements for EV charging equipment parking spaces or for parking spaces that are accessible to persons with disabilities on new multifamily residential and nonresidential development if those requirements would have otherwise applied to the development (Gov. Code § 65863.2(f)). Accordingly, the Commission and local governments may continue to require EV charging infrastructure and accessible parking on multifamily residential and nonresidential development located within one-half mile of a major transit stop. However, the number of spots limited to EV parking should be considered in the context of the overall parking availability at a location to ensure that adequate parking remains for all as the state transitions to more affordable and accessible EVs for all Californians.
- **Voluntarily Proposed Parking.** When a project applicant proposes to include parking as part of the project, the Commission and local governments can require that the provided parking be shared with the public and include spaces for car share vehicles (Gov. Code § 65863.2(g)). Voluntarily proposed parking can be considered when assessing a project's consistency with the Coastal Act or LCP.
- **Monitoring and Adaptive Management.** To protect public access and recreation to and along the coast in the absence of applying minimum parking standards, local governments should monitor and evaluate the impact to public access and recreation in and near areas where such parking standards no longer apply, including the availability and effectiveness of alternative transportation, public parking supply and overcrowding, impact of any timing or other parking restrictions, and the changes in visitation to the area (e.g., numbers of visitors, local versus regional, statewide or international visitorship). The above measurements should include demographics (such as income, race, ethnicity) to understand access impacts to environmental justice communities. In addition, potential public access and recreation issues should be documented in findings, and conditions could

¹⁹ See, for example, [Franco](#), 5-20-0597; [1429 Hermosa, LLC](#), 5-13-0717; [B&J Capital Group Investments](#), 5-20-0181.

²⁰ See, for example, [Panattoni Development Co.](#) (Appeal No. A-5-LOB-20-0006, 2021), and [California Department of Parks and Recreation, Trippet Ranch](#) (App. No. 4-21-068, 2022).

require monitoring and potential adaptive management for the proposed development, as appropriate.

- **Enforcing Existing Public Parking Regulations.** Local governments should prioritize monitoring public parking availability and enforcing public parking regulations, such as time limits, particularly in parking constrained coastal areas.

Other special conditions could include, for example, public parking time limits, real estate disclosures identifying and acknowledging existing parking limitations, or programs for resident notification of parking limitations.

In sum, local governments must ensure that new development located in areas where AB 2097 applies mitigates its public access and recreation impacts by imposing alternative project conditions where necessary, in conjunction with updated LCP policies that facilitate alternative means or programs for the public to access and recreate at the coast.

IV. Conclusion

The Commission and local governments should harmonize the public access and recreation provisions of the Coastal Act and LCPs with the requirements of AB 2097 to the maximum extent feasible. AB 2097 is a potential step towards reducing our car-centric manner of accessing the coast. However, AB 2097 is likely to have impacts on visitors and inland residents that will be difficult to fully mitigate. Implementation in the coastal zone requires careful analysis and an increased emphasis on alternative ways of providing access to the coast. The Commission and local governments can require and plan for alternatives to imposing minimum automobile parking requirements for development located within one-half mile of a major transit stop, such as LCP amendments encouraging public transit and multi-modal transportation and CDP conditions requiring alternative and public transit amenities. Local governments are encouraged to work closely with Coastal Commission staff to develop strategies that can mitigate for the increased demand for public parking in these areas to the maximum extent feasible and in an equitable manner.