

CALIFORNIA COASTAL COMMISSION

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Th14b

LCP-6-SAN-22-0025-1 (2021 Land Development Code Update)

September 2023

EXHIBITS

Table of Contents

EXHIBIT 1: Strikeout/Underline Ordinance

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 2, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 112.0304; AMENDING CHAPTER 11, ARTICLE 2, DIVISION 6 BY AMENDING SECTIONS 112.0602 AND 112.0604; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 113.0103; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 113.0270; AMENDING CHAPTER 12, ARTICLE 5, DIVISION 3 BY AMENDING SECTION 125.0330; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 BY AMENDING SECTION 126.0402; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0431; REPEALING SECTION 131.0454, AND AMENDING SECTIONS 131.0455 AND 131.0461; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTIONS 131.0522 AND 131.0546; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 7 BY AMENDING SECTIONS 131.0707, 131.0709 AND 131.0718; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 141.0103; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 141.0203; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 141.0308 AND 141.0309; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 142.0528; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY RETITLING AND AMENDING SECTION 142.0640; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 7 BY AMENDING SECTION 142.0740; AMENDING CHAPTER 14, ARTICLE 2, BY RETITLING DIVISION 8, RETITLING AND AMENDING SECTION 142.0801; ADDING SECTIONS 142.0802 AND 142.0803, RETITLING AND AMENDING SECTIONS 142.0805, 142.0810, 142.0820, 142.0830, AND ADDING SECTION 142.0831; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 13 BY AMENDING SECTION

EXHIBIT NO. 1
APPLICATION NO.
LCP-6-SAN-22-025-1
Strikeout/Underline Ordinances
 California Coastal Commission

142.1304; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1 BY AMENDING SECTION 143.0110; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 2 BY AMENDING SECTION 143.0260; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 7 BY AMENDING SECTIONS 143.0720, 143.0740, AND 143.0745; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTIONS 143.1001, 143.1002, 143.1005, 143.1010, 143.1015, 143.1020, 143,1025, AND 143.1030; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 11 BY AMENDING SECTION 143.1103; AMENDING CHAPTER 15, ARTICLE 6, DIVISION 3 BY AMENDING SECTIONS 156.0302, 156.0304, 156.0307, 156.0308, 156.0309, 156.0310, 156.0313, AND 156.0315; AMENDING CHAPTER 15, ARTICLE 7, DIVISION 3 BY AMENDING SECTION 157.0304; AMENDING CHAPTER 15, ARTICLE 10, DIVISION 1 BY AMENDING SECTION 1510.0107; AMENDING CHAPTER 15, ARTICLE 10, DIVISION 3 BY AMENDING SECTION 1510.0301 AND RETITLING AND AMENDING SECTION 1510.0304; AMENDING CHAPTER 15, ARTICLE 16, DIVISION 1 BY AMENDING SECTION 1516.0107 AND 1516.0139, RELATING TO THE 2021 SAN DIEGO LAND DEVELOPMENT CODE/MUNICIPAL CODE UPDATE.

§112.0304 Posted Notice

When this division requires a Notice of Application or a Notice of Future Decision to be posted, the *applicant* shall post the notice in the following manner.

- (a) Placement of Notice. The *applicant* shall post copies of the Notice of Application or Notice of Future Decision along the *street frontage* of the property that is the subject of the application. The notices shall not be spaced more than 200 feet apart. No more than three notices are required for any property. If the *street frontage* is less than 200 feet, only one notice is required.

- (1) The notice shall be printed in black ink on foam core board and located in a conspicuous place on the property abutting a street not more than 10 feet inside the *property line* but no closer than five feet to a *property line*.
- (2) The notice shall be 12 feet square in *sign* area, measuring three feet by four feet.
- (3) *Signs* may be placed in commercial display windows, attached to perimeter fencing, or supported on four-inch by four-inch wood posts not exceeding six feet in height from the ground level. If the property is surrounded by *fences*, walls, or hedges at or near the *street property line*, additional height may be provided as necessary to ensure visibility of the *sign* from the *public right-of-way*.
- (4) The notice shall not be illuminated.
- (5) The notice shall remain in place until the expiration of any appeal period as set forth in the Land Development Code following the decision by the decision maker. If the decision has been appealed, a new notice with the appeal hearing date shall be posted. The notice shall be removed within 10 *business days* of either the conclusion of the appeal period or the final decision, whichever occurs later.

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

§112.0602 Process CIP/Public Project-Two

An application for a Site Development Permit for a *capital improvement program project* or a public project determined to be in compliance with the Environmentally Sensitive Lands Regulations ~~and~~ Historical Resources Regulations without deviation, or a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be acted upon in accordance with Process CIP/Public Project-Two. An application for a Process CIP/Public Project-Two decision may be initially approved, conditionally approved, or denied by a staff person designated by the City Manager pursuant to Section 111.0205. A public hearing will not be held. An appeal hearing is available upon written request, in accordance with Section 112.0603. A Process CIP/Public Project-Two decision shall be made in the following manner.

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

§112.0604 Process CIP/Public Project-Five

An application for a Site Development Permit for a *capital improvement program project* or a *public project* that deviates from the ~~Environmentally Sensitive Land Regulations or~~ Historical Resources Regulations; or a City-issued Coastal Development Permit in the *appealable area* of the Coastal Overlay Zone, shall be acted upon in accordance with Process CIP/Public Project-Five. An application for a Process CIP/Public Project-Five decision may be approved, conditionally approved, or denied by the City Council. A Process CIP/Public Project-Five decision shall be made in the following manner.

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

§113.0103 Definitions

Abutting property through Important archaeological site [No change in text.]

Interested person means a person who ~~was present~~ spoke at a public hearing from which an appeal arose ~~and who had filed a speaker slip with the decision maker at that public hearing~~ or a person who expressed an interest in the decision in writing to that decision maker before the close of the public hearing.

Interior Court through Yard [No change in text.]

§113.0270 Measuring Structure Height

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

(1) [No change in text.]

Diagram 113-02JJ

Maximum Permitted Structure Height

[No change in text.]

(2) A two-part calculation is required to measure *structure height* including:

(A) Plumb line measurement. The *structure height* is measured from all points on top of a *structure* to *existing grade* or *proposed grade*, whichever is lower, directly below each point, except as described in Section 113.0270(a)(4). This measurement is taken vertically through the *structure* at each point where *structure height* is being measured, as shown in Diagram 113-2KK.

Diagram 113-02KK

Measurement of Structure Height

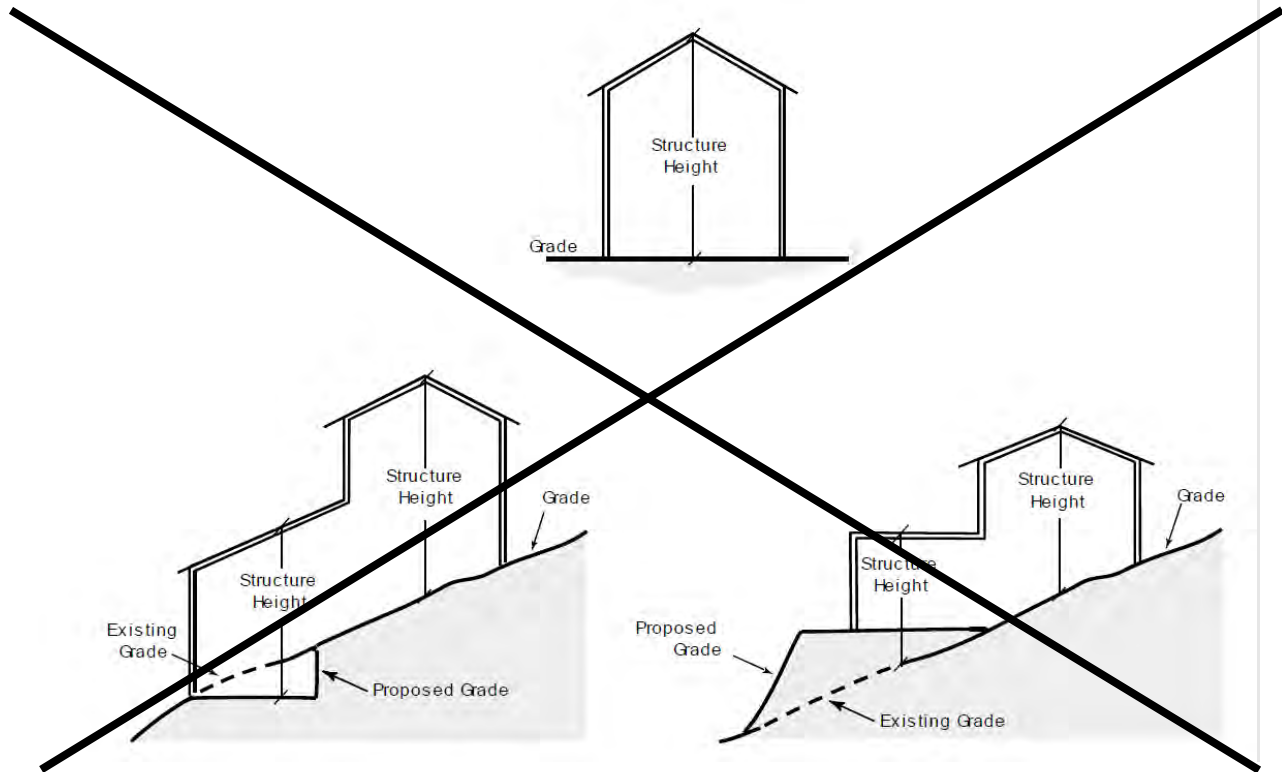
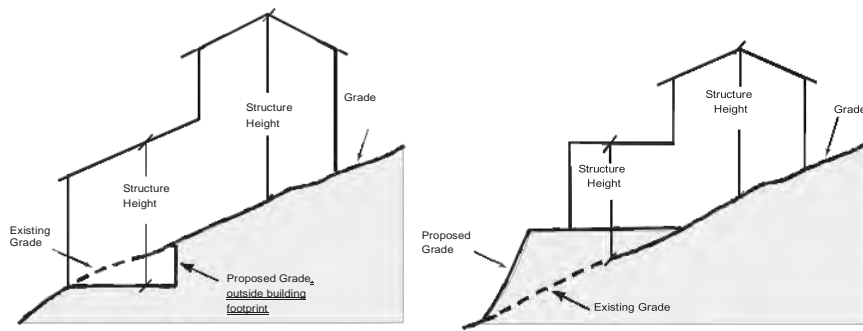
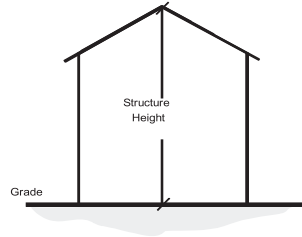


Diagram 113-02KK

Measurement of Structure Height



BUILDING ELEVATIONS

(B) [No change in text.]

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

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

§125.0330 Decision Process for a Lot Line Adjustment.

A decision on an application for a Lot Line Adjustment shall be approved or denied in accordance with Process One, except for premises containing environmentally sensitive lands, as set forth in Section 126.0402.

§126.0402 When a Neighborhood Development Permit Is Required

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

(r) A Neighborhood Development Permit is required for a Lot Line Adjustment on a premises containing environmentally sensitive lands as described in Section 143.0110.

§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				
		OP-		OC-	OR ⁽¹⁾ -	OF ⁽¹¹⁾ -
	1st & 2nd >>					
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1 2	1
Open Space through Separately Regulated Agricultural Uses, Commercial Stables		[No change in text.]				
Community Gardens		<u>-L</u>	<u>NL</u>	-	N	L

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⁾ -	OF ⁽¹¹⁾ -
	3rd >>		1-	2-	1-	1-	1-
	4th >>		1	1	1	1	2
Equestrian Show & Exhibition Facilities through <i>Signs</i>, Separately Regulated <i>Signs</i> Uses, Theater <i>Marquees</i>			[No change in text.]				

Footnotes for Table 131-02B

[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) [No change in text.]
- (b) RS Zones

**Table 131-04D
Development Regulations for RS Zones**

[No change in text.]

Footnotes for Table 131-04D

¹ through ⁶ [No change in text.]

⁷ In the Encanto and Southeastern San Diego Community Planning areas, the lot size shall be a minimum of 5,000 square feet, and all development regulations of the RS-1-7 zone shall apply to subdivisions.

⁸ [No change in text.]

- (c) 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 Lot consolidation regulations [See Section 131.0453(a)]	[No change in text.]						
Storage requirements [See Section 131.0454]	applies	applies	applies	applies	applies	applies	
Private exterior open space through Dwelling Unit Protection Regulations [See Chapter 14, Article 3, Division 12]	[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 <i>Lot consolidation regulations</i>	[No change in text.]						
Storage requirements [See Section 131.0454]	applies	applies	applies	applies	applies	Applies	
Private exterior open space through <i>Dwelling Unit Protection Regulations</i> [See Chapter 14, Article 3, Division 12]	[No change in text.]						

Footnotes for Table 131-04G

[No change in text.]

§131.0454 Storage Requirements in the RM Zones

~~In all RM zones, each dwelling unit shall have a fully enclosed, personal storage area outside the unit that is at least 240 cubic feet with a minimum 7 foot horizontal dimension along one plane.~~

§131.0455 Private Exterior Open Space in the RM Zones

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

(e) In the RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, where private exterior open space is not provided at the quantity required in a *development* pursuant to Section 131.0455(c)-(d), an equal amount of common exterior open space in addition to the requirements of

Section 131.0456, which applies to premises with more than four dwelling units, shall be provided as alternative compliance to Section 131.0455(c)-(d).

§131.0461 Architectural Projections and Encroachments in Residential Zones

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

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

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

(6) Projecting balconies may encroach up to 4 feet into the required minimum front and street side yard subject to the following requirements:

(A) One unenclosed projecting balcony per dwelling unit is permitted for each story above the first story;

(B) Support posts to the ground below are not permitted unless the area below the balcony serves as a projecting entry and provides shelter for an access door to the dwelling unit; and

(C) The maximum permitted width of projecting balconies shall not exceed 10 feet or 50 percent of the width of the habitable portion of the building elevation, whichever is greater.

§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	Zone Designator	Zones																
		[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	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
Open Space through Agriculture, Aquaculture Facilities		[No change in text.]																
Dairies		[No change in text.]																
Horticulture Nurseries & Greenhouses through Signs, Separately Regulated Signs Uses, Theater Marquees		[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-			6-									
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	6
Open Space through Signs, Separately Regulated Signs Uses, Theater Marquees		[No change in text.]																								

Footnotes for Table 131-05B

[No change in text.]

§131.0546 Maximum Floor Area Ratio

Maximum *floor area ratio* is specified in Tables 131-05C, 131-05D, 131-05E and is subject to the following additional regulations:

- (a) [No change in text.]
- (b) *Floor Area Ratio* Bonus for Child Care Facilities

In the CR-1-1, CR-2-1, CO-1-2, CO-2-2, CO-3-1, and CO-3-2 zones, a *floor area ratio* bonus over the otherwise maximum allowable *gross floor area* is permitted at the rate of ~~4~~10 square feet of additional *gross floor area* for each 1 square foot of *gross floor area* devoted to the *child care facility* to be added to the total area of the *premises* when determining the *floor area ratio* for a *development*. The area designated for the *child care facility* must ~~be used for child care~~ maintain an ‘E’ occupancy permit for a minimum of 10 years from the time of construction permit issuance and must be in compliance with the requirements of Section 141.0606 (Child Care Facilities).

§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 Fairgrounds through Industrial, Trucking & Transportation Terminals	[No change in text.]										
Separately Regulated Industrial Uses											
Artisan Food and Beverage Producer	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>	<u>-P</u>
<i>Cannabis Production Facilities</i> through Signs, Separately Regulated Signs Uses, Theater Marquees	[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					
		RMX			EMX		
	1st >>	1	2	3	1	2	3
[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	2nd >>						
Open Space through Separately Regulated Commercial Services Uses, Adult Entertainment Establishments		[No change in text.]					
Adult Book Store		-	-	-	E ₂	E ₂	E ₂
Adult Cabaret		-	-	-	E ₂	E ₂	E ₂
Adult Drive-In Theater		-	-	-	E ₂	E ₂	E ₂
Adult Mini-Motion Picture Theater		-	-	-	E ₂	E ₂	E ₂
Adult Model Studio		-	-	-	E ₂	E ₂	E ₂
Adult <i>Motel</i>		-	-	-	E ₂	E ₂	E ₂
Adult Motion Picture Theater		-	-	-	E ₂	E ₂	E ₂
Adult Peep Show Theater		-	-	-	E ₂	E ₂	E ₂
Adult Theater		-	-	-	E ₂	E ₂	E ₂
Body Painting Studio		[No change in text.]					
Massage Establishment		[No change in text.]					
Sexual Encounter Establishment		E ₂	E ₂	E ₂	E ₂	E ₂	E ₂
Assembly and Entertainment Uses, Including Places of Religious Assembly through <i>Signs</i> , Separately Regulated Signs Uses , Theater <i>Marquees</i>		[No change in text.]					

Footnotes for Table 131-07A

- ¹ through ² [No change in text.]
- ³ ~~Permitted in an enclosed space with up to 7,500 square feet of gross floor area; the use of more space requires a Conditional Use Permit.~~ Activities that would require a permit from the Hazardous Materials Management Division of the County of San Diego or from the San Diego Air Pollution Control District require a Conditional Use Permit.
- ⁴ Eating and drinking establishments abutting an existing residential base zone shall only operate ~~only~~ between 6:00 a.m. and 12:00 a.m.
- ⁵ through ⁸ [No change in text.]

§131.0709 Development Regulations Table for Mixed-Use Zones

The following development regulations apply in the mixed-use zones as shown in Table 131-07B.

**Table 131-07B
Development Regulations for RMX and EMX Zones**

Development Regulations	Zones					
	RMX-			EMX-		
	1	2	3	1	2	3
Minimum Lot Area (sf) through Refuse and Recyclable Material Storage [See Section 142.0805]	[No change in text.]					
Storage Requirements for Residential Only [See Section 131.0454]	Applies					
Dwelling Unit Protection Regulations [See Chapter 14, Article 3, Division 12]	[No change in text.]					

Footnotes for Table 131-07B

[No change in text.]

§131.0718 Supplemental Regulations for Premises Greater Than Five Acres

The purpose and intent of these regulations is to break down ~~larger~~ sites larger than 5 acres into approximately two-acre segments to enhance a sense of place; facilitate pedestrian circulation; reduce walking distances; improve connections to the *public right-of-way* or private drives, transit, and adjoining neighborhoods; and promote the livability and vitality of such *development*. These requirements shall apply even in the event of the approval of a Lot Line Adjustment which reduces the size of the premises to less than 5 acres.

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

§141.0103 Applicable Regulations for Separately Regulated Uses

(a) Except as specifically provided in this 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) [No change in text.]
- (2) All applicable regulations of Chapter 13, Article 2 (Overlay Zones); ~~and~~
- (3) All applicable regulations of Chapter 14 (General Regulations); ~~and~~
- (4) All applicable regulations of Chapter 6, Article 6 (Collection, Transportation and Disposal of Refuse and Solid Waste).

(b) [No change in text.]

§141.0203 Community Gardens

Community gardens are *premises* that are used for crop cultivation by individuals or collectively, and may be divided into multiple plots. Community gardens are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

- (i) Community gardens located within a *public park* shall be designed, constructed, and maintained to the satisfaction of the Parks and Recreation Director.

§141.0308 Home Occupations

Home occupations are businesses conducted by residents on the *premises* of their homes. Home occupations, including cottage food operations authorized pursuant to California Government Code section 51035, are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. An *applicant* may deviate from the requirements in Section 141.0308(k) through (n) by obtaining a Neighborhood Use Permit in accordance with Section 126.0203.

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

(c) The home occupation ~~shall not result in the elimination or the reduction of~~ may reduce required off-street parking spaces by one off-street parking space, so long as the reduction does not result in the elimination of all off-street parking spaces.

(d) through (n) [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. The interim residential density shall not be counted towards the maximum allowable density of the underlying zone or land use plan. Interim ground *floor residential-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) through (c) [No change in text.]

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

(e) Residential development permitted in accordance with this section is required to pay Development Impact Fees in accordance with Section 142.0640(b)(7).

§142.0528 Parking Standards Transit Priority Area Regulations

The Parking Standards Transit Priority Area Regulations establish the parking requirements for *multiple dwelling unit residential development* where all or a portion of the *premises* is located within a Parking Standards Transit Priority Area. For purposes of this section, Parking Standards Transit Priority Area means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the San Diego Association of Governments (SANDAG) Regional Transportation Improvement Program (RTIP). The RTIP covers five fiscal years and incrementally implements the long-range Regional Transportation Plan for the San Diego region. *Multiple dwelling unit residential development* that involves four or fewer *dwelling units*, or that includes at least 20 percent on-site housing that is affordable to persons with a household income equal to or less than

50 percent of the area median income as determined in accordance with California Health and Safety Code section 50093 and is subject to an affordability restriction for a minimum of 55 years, is exempt from the *unbundled parking* requirement in subsection 142.0528(b)(1). Reasonable accommodations to parking requirements shall be granted if necessary to afford ~~disabled persons~~ people with disabilities equal housing opportunities under state or federal law, in accordance with Section 131.0466. *Multiple dwelling unit residential development* in the Centre City and Gaslamp, and Marina Planned Districts is exempt from the transportation amenity requirement in subsection 142.0528(c).

(a) Parking Requirement. *Off-street parking spaces* are not required.

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

(3) A passenger drop-off and loading zone shall be provided along the street frontage, near the main accessible entrance unless there is an existing compliant passenger drop-off and loading zone within 200 feet from the main accessible entrance of the development. The passenger drop-off and loading zone shall comply with the City of San Diego Standard Drawings for Public Works Construction. An accessible route within the boundaries of the premises shall be provided, from the accessible main accessible entrance of the development to the passenger drop-off and loading zone, in accordance with the California Building Standards Code.

(4) An on-street accessible parking space shall be provided along the street frontage, unless existing compliant on-street parking spaces within the block perimeter are within a ratio of 1 accessible space for every 25 standard spaces. The on-street accessible parking spaces shall comply with the City of San Diego Standard Drawings for Public Works Construction.

An accessible route shall be provided within the boundaries of the premises, from the main accessible entrance of the development to the designated on-street accessible parking space, in accordance with the California Building Standards Code.

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

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

(3) The number of off-street electric vehicle charging spaces shall be provided in accordance with Title 24 of the California Code of Regulations (California Green-Building Standards Code).

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

(c) [No change in text.]

§142.0640 Development Impact Fees for Financing Public Facilities and Spaces

(a) [No change in text.]

(b) Payment of Fees

Development Impact Fees (as defined in California Government Code Section 66000) 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 prior to requesting a final inspection.~~ A final inspection shall not occur until the applicable DIFs are paid in areas where Development Impact Fees DIFs have been established by City Council resolution or ordinance. Notwithstanding the above, the City Manager may also require the payment of Development Impact Fees DIFs for *development* that would increase demand for public facilities and/or result in the need for new public facilities. Development Impact Fees DIFs 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 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.~~ The DIF amount due shall be based upon the DIF schedule in effect when the Building Permit was issued, or

the DIF schedule in effect when the fees are paid, whichever amount is lower, plus an automatic increase consistent with Section 142.0640(c), if applicable.

Exemptions:

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

(3) Inclusionary *dwelling units* provided pursuant to Chapter 14, Article 2, Division 13 are exempt from DIFs 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*. When an *applicant* provides more affordable *dwelling units* than required pursuant to Chapter 14, Article 2, Division 13, the exemption is applied to the largest (in terms of square feet) applicable affordable *dwelling unit(s)*.

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

Table 142-06A

[No change in text.]

(6) *Development* that designs and constructs an onsite park that satisfies the *development's* park standard identified in the Parks Master Plan, shall not be subject to the requirement to pay the Citywide Park DIF, where the requirements set forth in San Diego Resolution R-313688 have been satisfied. *Development* that designs and constructs an onsite park that satisfies a portion of the

development's parks standards shall be subject to a proportionate share credit of the DIF for the Citywide Park DIF where the requirements set forth in San Diego Resolution R-313688 have been satisfied. To be eligible for any exemption under this subsection, the following additional requirements shall apply:

(A) The park shall be designed and constructed in accordance with a General Development Plan approved in accordance with Council Policy 600-33;

(B) The park shall be designed and constructed in accordance with the City's Park Development Standard Terms and Conditions and Consultant's Guide to Park Design and Development to the satisfaction of the Parks and Recreation Director;

(C) The park shall be publicly accessible in perpetuity to the satisfaction of the Parks and Recreation Director;

(D) If the development is receiving park credit for long-term maintenance in accordance with the Parks Master Plan, a maintenance agreement to maintain the park to the satisfaction of the Parks and Recreation Director shall be recorded with the County Recorder prior to final inspection of the first Building Permit;

- (E) A performance bond and payment bond shall be provided for the design and construction of the park prior to the issuance of the first Building Permit for any *dwelling units* in the *development*, and no final inspection shall occur for the remaining 50 percent of the total *dwelling units* in the *development* until the park has been constructed to the satisfaction of the Parks and Recreation Director; and
- (F) Prior to requesting final inspection of the first *dwelling unit* in the *development*, a fee in the amount of 10 percent of the total DIF related to parks that would have otherwise been required shall be paid to fund park and recreation improvements in the City in accordance with San Diego Resolution R-313688.
- (7) Interim residential *development* that obtains a Building Permit in accordance with Section 141.0309 shall be required to pay one-third of the applicable residential DIF. At the end of 10 years from issuance of the Neighborhood Use Permit, if the interim residential use and associated Neighborhood Use Permit is extended beyond the initial term, the remaining two-thirds of the applicable residential DIF in effect at the time of the granting of the initial Building Permit shall be paid.(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) Payment of DIFs shall not be deferred unless and until a Fee Deferral Agreement is entered into to the satisfaction of the City Manager. The Fee Deferral Agreement shall be recorded against the applicable property in the Office of the San Diego County Recorder and shall constitute a lien for the payment of the DIFs. The Fee Deferral Agreement shall be binding upon, and the benefits of the agreement shall inure to, the parties and all successors in interest to the parties to the Fee Deferral Agreement.~~

~~(3) Payment of DIFs shall only be deferred if the applicable administrative processing fee, as adopted by City Council resolution, is paid by the applicant.~~

- (4) ~~If payment of the DIFs are deferred, the deferred DIFs due shall be determined in accordance with Section 142.0640(b) (c), except that, if the DIFs are paid prior to the end of the deferral period as set forth in Section 142.0640(d)(1), 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 an automatic increase consistent with Section 142.0640(c) if applicable. If the DIFs are not paid timely as provided for in the Fee Deferral Agreement, the amount of the DIFs shall be determined in accordance with the DIFs schedule in effect when the DIFs are actually paid, or the schedule in effect at the end of the DIFs deferral period as set forth in Section 142.0640(d)(1), plus automatic increases consistent with Section 142.0640(c), whichever amount is greater.~~
- (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 increases for the first two years only, consistent with Section 142.0640(e), if applicable.~~

(ed) Waiver or Reduction of Fees

Any party on whom DIFs are imposed, may file an application for a waiver or reduction of the DIFs with the City Manager in accordance with this Subsection. Nothing in this Subsection shall affect the requirements set forth in Section 142.0640(b). The procedures provided in this Subsection are additional to any other procedure authorized by law for protesting or challenging DIFs.

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

(3) An application for a waiver or reduction of DIFs shall be filed no later than 10 calendar days after ~~either the DIFs are paid or the associated Fee Deferral Agreement has been fully executed by the City, whichever occurs earlier.~~

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

(~~fe~~) Adjustments to DIFs for Residential Development

The City Manager or designee is authorized to adjust DIF for residential *development* to reflect residential uses not identified in the fee schedule approved by the City Council

(~~gf~~) Developer Reimbursement Agreements (DRA)

For purposes of this Division, a DRA means an agreement to reimburse another entity for all or a portion of the cost of the entity's contracts with consultants and/or contractors for the design and construction of a public works project. The City Manager may enter into a DRA for a public works project that contains supplemental size, capacity, number, or length, or will serve communitywide needs, the need for which is not directly attributable to the *development*, provided that the following minimum requirements are satisfied:

- (1) The source of reimbursement shall be limited to DIF (as defined in Government Code section 66000) funds.
- (2) The public works project is identified in a City Council-adopted public facilities financing plan or impact fee study and the amount of reimbursement does not exceed the amount identified for the public works project in the adopted public facilities financing plan or impact fee study.
- (3) Any contract for expenses subject to reimbursement pursuant to a DRA shall be awarded in accordance with the City Charter and San Diego Municipal Code Chapter 2, Article 2, Divisions 27, 30,

31, and 33 through 36. San Diego Municipal Code Chapter 2, Article 2, Division 32 shall not apply to consultant contracts that are entered into pursuant to a DRA.

(4) The amount of the DRA shall not exceed \$30,000,000.

(g) For any Fee Deferral Agreements that were entered into prior to _____, any liens resulting from the recordation of the Fee Deferral Agreement shall not be due or payable until a final inspection is requested.

§142.0740 Outdoor Lighting Regulations

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

(c) General regulations that apply to all outdoor lighting:

(1) [No change in text.]

(2) Shields and flat lenses shall be required to control and direct the light below an imaginary horizontal plane passing through the lowest point of the fixture, except for:

(A) [No change in text.]

(B) Outdoor lighting fixtures less than ~~4,050~~ 6,200 initial luminaire lumens, including landscape lighting and decorative lighting;

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

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

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

Article 2: General Development Regulations

Division 8: Refuse, Organic Waste, and Recyclable Materials Storage Regulations

§142.0801 Purpose of Refuse, Organic Waste, and Recyclable Materials Storage Regulations

The purpose of these regulations is to provide permanent, adequate, and convenient space for the storage and ~~collection~~ collection of ~~refuse~~ refuse, organic waste, and recyclable material. The intent of these regulations is to encourage ~~reeycling~~ recycling and composting of solid waste to reduce the amount of waste material entering landfills and to meet the ~~reeycling~~ recycling and waste reduction goals established by the City Council and mandated by the ~~s~~State of California.

§142.0802 Collection and Management

- (a) Development that generates refuse, organic waste, and/or recyclable material shall provide for the collection and management of these materials pursuant to Chapter 6, Article 6. Development shall provide adequate storage space for these materials as set forth in Sections 142.0801 through 142.0830.
- (b) To be considered for City-provided services under Section 66.0127, as it may be amended, development shall comply with all applicable requirements of Chapter 6, Article 6 and the Waste Management Regulations.
- (c) Development shall comply with the Construction and Demolition Debris Diversion Deposit Program in Chapter 6, Article 6, Division 6, as applicable.

§142.0803 **Definitions**

The following definitions apply to this Division. Where not otherwise specified, the definitions found in Section 66.0102 and Chapter 11, Article 3, Division 1 of the Land Development Code shall apply. Each word or phrase that is defined in this Division, Section 66.0102, or in Chapter 11, Article 3, Division 1 of the Land Development Code appears in the text in italicized letters.

Collection means to take physical possession of and remove *refuse, organic waste, or recyclable material* at the place of generation.

Organic waste means commingled yard trimmings, nonhazardous wood waste, *food material*, or food-soiled paper mixed with *food material*.

§142.0805 **When Refuse, Organic Waste, and Recyclable Materials Storage Regulations Apply**

~~Refuse~~ *Refuse, organic waste, and recyclable materials* ~~*recyclable materials*~~ storage shall be provided for the following types of *development* as indicated in Table 142-08A:

- (a) New residential *development* ~~projects involving two or more of a single~~ *dwelling units*,
- (b) New residential development of *multiple dwelling units*,
- (bc) New nonresidential *development*, or
- (ed) Additions to existing *multiple dwelling unit* residential, ~~commercial~~ or ~~industrial~~ ~~existing~~ nonresidential *development* where the *gross floor area* would be increased by 30 percent or more.

Table 142-08A

**Refuse, Organic Waste, and Recyclable Material Storage Regulations
Applicability**

Type of Development Proposal	Applicable Regulations	Required Permit Type/Decision Process
<i>Development- of a single dwelling unit</i>	Exempt from this division <u>Comply with the Waste Management Regulations, if applicable, and Sections 142.0810, 142.0820, and 142.0831</u>	Exempt from <u>No permit required by</u> this division
New residential <i>development involving two or more of multiple dwelling units</i>	<u>Comply with the Waste Management Regulations, if applicable, and Sections 142.0810, and 142.0820, and 142.0831</u>	[No change in text.]
New nonresidential <u>New nonresidential development</u>	<u>Comply with Sections 142.0810, and 142.0830, and 142.0831</u>	[No change in text.]
Additions to existing <i>multiple dwelling unit residential, commercial, or industrial or nonresidential development</i> where the <i>gross floor area</i> would be increased by 30 percent or more	<u>Comply with the Waste Management Regulations, if applicable, and Sections 142.0810, 142.0820, and 142.0830, and 142.0831</u>	[No change in text.]

§142.0810 General Regulations for Refuse, Organic Waste, and Recyclable Material Storage

New ~~residential development~~ as indicated in Section 142.0805 shall provide on-site areas for the storage of ~~refuse~~ refuse, organic waste, and recyclable material that meet the following standards:

- (a) [No change in text.]
- (b) Location of Material Storage Areas
 - (1) [No change in text.]

- (2) Material storage areas may be located outside a *structure* in required rear *yards* or in required side *yards*. Exterior material storage areas shall ~~not be located in any front yard, street side yard, street yard area, parking area, landscaped area, or any other area required by the Municipal Code to be constructed or maintained unencumbered according to fire or other applicable building or public safety laws onsite and be accessible to haulers from the public right-of-way.~~ Exterior material storage areas shall not be located in any required landscape area.
- ~~(3) Material storage areas shall be accessible to occupants and haulers.~~
- ~~(4)~~(3) Premises served by an *alley* shall provide material storage areas that are directly accessible from the *alley*.
- (5) ~~One sign identifying the material storage area is required for each area and shall be posted on the exterior of the material storage area near the point of access. The maximum sign copy area permitted for each sign shall be one square foot.~~
- ~~(6)~~(4) For ~~commercial~~ nonresidential *development* on *premises* not served by an *alley*, material storage areas shall be located at least 25 feet from any *street* ~~or sidewalk~~.
- (c) *Screening of Material Storage Areas.* Material storage areas located outside any *structure* shall be *screened* with a minimum 6-foot-high solid *screening* enclosure that is designed to be architecturally consistent with

the primary *structure*. ~~Refuse~~Refuse, organic waste, and recyclable material, and material storage containers shall not exceed the height of the solid *screening* enclosure.

- (d) Signage. For multiple dwelling unit residential and nonresidential development, one sign identifying the material storage area is required for each area and shall be posted on the exterior of the material storage area near the point of access. The maximum sign copy area permitted for each sign shall be one square foot.

§142.0820 Refuse, Organic Waste, and Recyclable Materials Storage Regulations for Residential Development

Applicable residential *development* in accordance with Section 142.0805, shall provide interior and exterior ~~refuse~~refuse, organic waste, and recycling~~recyclable material~~ storage areas as specified below:

- (a) Interior ~~Refuse~~Refuse, Organic Waste, and Recyclable Material Storage. Each *dwelling unit* shall be equipped with an interior ~~refuse~~refuse, organic waste, and recyclable material storage area.
- (b) Exterior ~~Refuse~~Refuse, Organic Waste, and Recyclable Material Storage. Each *structure* that contains *dwelling units* shall provide at least one exterior refuse, organic waste, and recyclable material storage area. -The total exterior storage area requirement ~~is~~ shall be based on the number of *dwelling units* in the *development* as shown in Table 142-08B and includes the sum of all residential material storage areas located outside of individual *dwelling units*.

- (c) Alternative compliance may be allowed by mechanical compactors or other comparable technology, or by use of private refuse and *recyclable materials* hauling to meet the specific needs of a *development*. Ministerial approval of alternative compliance during building plan review may occur if it can be demonstrated to the satisfaction of the City Engineer that the alternative compliance accommodates the same or greater capacity than Table 142-08B requires.

Table 142-08B

**Minimum Exterior Refuse, Organic Waste, and
Recyclable Material Storage Areas for
Residential Development**

Number of Dwelling Units Per Development	Minimum Refuse Storage Area Per Development (Square Feet)	<u>Minimum Organic Waste Storage Area Per Development (Square Feet)</u>	Minimum <i>Recyclable Material</i> Recyclable Material Storage Area Per Development (Square Feet)	Total Minimum Storage Area Per Development (Square Feet)
<u>1</u>	<u>6.25</u>	<u>6.25</u>	<u>6.25</u>	<u>18.75</u>
2-6	[No change in text.]	<u>12</u>	[No change in text.]	<u>2436</u>
7-15	[No change in text.]	<u>24</u>	[No change in text.]	<u>4872</u>
16-25	[No change in text.]	<u>48</u>	[No change in text.]	<u>96144</u>
26-50	[No change in text.]	<u>96</u>	[No change in text.]	<u>192288</u>
51-75	[No change in text.]	<u>144</u>	[No change in text.]	<u>288432</u>
76-100	[No change in text.]	<u>192</u>	[No change in text.]	<u>384576</u>
101-125	[No change in text.]	<u>240</u>	[No change in text.]	<u>480720</u>
126-150	[No change in text.]	<u>288</u>	[No change in text.]	<u>576864</u>
151-175	[No change in text.]	<u>336</u>	[No change in text.]	<u>6721,008</u>
176-200	[No change in text.]	<u>384</u>	[No change in text.]	<u>7681,152</u>
201+	384 plus 48 square feet for every 25 <u>dwelling units</u> above 201	<u>384 plus 48 square feet for every 25 dwelling units above 201</u>	384 plus 48 square feet for every 25 <u>dwelling units</u> above 201	<u>768-1,152</u> plus 96 <u>144</u> square feet for every 25 <u>dwelling units</u> above 201

§142.0830 Refuse, Organic Waste, and Recyclable Material Storage Regulations for Nonresidential Development and Mixed-Use Development

- (a) ~~All new n~~Nonresidential Development. *Nonresidential development*, or additions to existing ~~commercial or industrial~~ nonresidential development where the *gross floor area* would be increased by 30 percent or more, shall provide at least one exterior ~~refuse~~ refuse, organic waste, and recyclable material storage area for each building. -The total storage area requirement ~~is~~ shall be based on the *gross floor area* of the nonresidential buildings on the *premises*, as shown in Table 142-08C, and includes the sum of all nonresidential ~~refuse~~ refuse, organic waste, and recyclable material storage areas.
- (b) Mixed-Use Development with Residential Uses. Where a *development* includes residential use as part of a mixed-use project, the *development* shall provide ~~refuse~~ refuse, organic waste, and recyclable material storage for the residential portion of the project in accordance with Table 142-08B, in addition to the storage areas required by Table 142-08C for the nonresidential *development*.

Table 142-08C

Minimum Exterior Refuse, Organic Waste, and Recyclable Material Storage Areas for Nonresidential Development

Gross Floor Area Per Development (Square Feet)	Minimum Refuse Storage Area Per Development (Square Feet)	Minimum Recyclable Material Storage Area Per Development (Square Feet)	<u>Minimum Organic Waste Storage Area Per Development (Square Feet)</u>	Total Minimum Storage Area Per Development (Square Feet)
0-5,000	[No change in text.]		<u>12</u>	<u>2436</u>

Gross Floor Area Per Development (Square Feet)	Minimum Refuse Storage Area Per Development (Square Feet)	Minimum Recyclable Material Storage Area Per Development (Square Feet)	<u>Minimum Organic Waste Storage Area Per Development (Square Feet)</u>	Total Minimum Storage Area Per Development (Square Feet)
5,000 <u>1</u> -10,000	[No change in text.]		<u>24</u>	<u>4872</u>
10,001-25,000	[No change in text.]		<u>48</u>	<u>96144</u>
25,001-50,000	[No change in text.]		<u>96</u>	<u>192288</u>
50,001-75,000	[No change in text.]		<u>144</u>	<u>244432</u>
75,001-100,000	[No change in text.]		<u>192</u>	<u>384576</u>
100,001+	[No change in text.]		<u>192 plus 48 square feet for every 25,000 square feet of building area above 100,001</u>	<u>384-576 plus 96 144 square feet for every 25,000 square feet of building area above 100,001</u>

§142.0831 Refuse, Organic Waste, and Recyclable Material Storage of Construction and Demolition Waste/Debris

On-site areas for the storage of refuse, organic waste, and recyclable material generated during construction and demolition activities shall be provided as follows:

- (a) Size of Material Storage Areas. The size of required material storage areas shall be adequate to separately store all construction and demolition waste, as defined in Section 66.0102, and construction and demolition debris, as defined in Section 66.0603, generated during the intervals between collection.

(b) Location of Material Storage Areas.

Material storage areas shall be located on-site if possible, although permission to use the *public right-of-way* may be granted by the Development Services Department on a case-by-case basis subject to all required permits and approvals, and the storage area shall be accessible to haulers from the *public right-of-way*.

(c) Signage.

One *sign* identifying the type of material storage area shall be required for each area. Each *sign* shall be posted on the exterior of the material storage area near the point of access.

§142.1304 Inclusionary Affordable Housing Requirements

From July 1, 2020 through June 30, 2024, the requirements of sSubsections (a) and (b) of this Section 142.1304 shall be implemented incrementally as set forth in the Inclusionary Affordable Housing Implementation and Monitoring Procedures Manual on file with the San Diego Housing Commission (Procedures Manual). Effective July 1, 2024, all residential *development* subject to this Division shall include inclusionary *dwelling units* as follows:

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

(e) *Development* of inclusionary *dwelling units* shall be subject to the following:

(1) [No change in text.]

(2) The inclusionary *dwelling units* shall be comparable in *bedroom* mix, design, and overall quality of construction to the market-rate

dwelling units in the *development*, as determined by the San Diego Housing Commission, except that the inclusionary *dwelling units* shall not be required to exceed three *bedrooms* per *dwelling unit*.

The square footage and interior features of the inclusionary *dwelling units* shall be good quality and consistent with current building standards for new housing in the City of San Diego. For purposes of calculating total *bedroom* count for inclusionary *dwelling units* on a different *premises* from the *development*, the *applicant* may provide different *bedroom* mixes to meet the total *dwelling unit* and *bedroom* count minimums as follows:

- (A) An affordable studio *dwelling unit* or a micro unit shall count as 60 percent of an affordable *bedroom*;
- (B) An affordable *SRO hotel room* shall count as 40 percent of an affordable *bedroom*; and
- (C) Any calculations resulting in fractional units shall round up to the next whole number.

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

(5) When the inclusionary *dwelling units* are located on a different *premises* from the *development*, the *applicant* shall record a deed restriction prior to the issuance of the first Building Permit that:

- (A) Documents the required number of affordable *dwelling units* to be provided; and

(B) Assigns foreclosure rights of the *development premises* to the San Diego Housing Commission as follows:

(i) For new *development*, if the affordable *dwelling units* have not received a certificate of occupancy within 54 months of the issuance of the first Building Permit.

(ii) For an existing *structure(s)* if the affordable *dwelling units* have not received a certificate of occupancy within 36 months of the issuance of the first Building Permit.

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

§143.0110 When Environmentally Sensitive Lands Regulations Apply

This Division applies to all proposed *development* on a *premises* where *environmentally sensitive lands* are present. Outside the Coastal Overlay Zone, *development* on a *premises* that does not contain *environmentally sensitive lands* but is located adjacent to a *premises* that contains *environmentally sensitive lands* is not subject to this Division, except that the *development* shall comply with Section 143.0110(d).

(a) [No change in text.]

(b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).

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

Table 143-01A

Applicability of Environmentally Sensitive Lands Regulations

<i>Environmentally Sensitive Lands Potentially Impacted by Project</i>						
Type of Development Proposal		Wetlands, listed species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed species habitat ⁽⁶⁾	Steep Hill-sides ⁽⁶⁾	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
1. through 9.		[No change in text.]				
<u>10. Lot Line Adjustments</u>	<u>R</u>	<u>143.0141</u>	<u>143.0141</u>	<u>143.0142</u>	<u>143.0143,</u> <u>143.0144</u>	<u>143.0145,</u> <u>143.0146</u>
	<u>P</u>	<u>NDP/</u> <u>Process Two</u>	<u>NDP/</u> <u>Process Two</u>	<u>NDP/</u> <u>Process Two</u>	<u>NDP/</u> <u>Process Two</u>	<u>NDP/</u> <u>Process Two</u>
	<u>U</u>	<u>143.0130(d),</u> <u>(e)</u>	<u>==</u>	<u>==</u>	<u>143.0130(a), (b)</u>	<u>143.0130(c)</u>

Legend to Table 143-01A

[No change in text.]

Footnotes for Table 143-01A

[No change in text.]

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

§143.0260 Deviations from the Historical Resource Regulations

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

- (c) If a deviation for demolition or removal of a *designated historical resource* or a contributing *structure* within a *historical district* is approved, ~~the applicant shall obtain approval a Building Permit application must be *deemed complete* for a~~the new development on the same *premises* ~~before~~ prior to issuance of a Demolition/Removal Permit.

§143.0720 Density Bonus in Exchange for Affordable Housing Units

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

- (l) A *development* proposal requesting an affordable housing *density* bonus is subject to the following:

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

- (9) For micro-unit *development* that provides five or more *dwelling units*; meets the criteria in Sections 143.0720(c)(1), 143.0720(c)(2), 143.0720(d)(1), 143.0720(d)(2), 143.0720(d)(3), 143.0720(e), or 143.0720(f); provides an average of no more than 600 square feet per *dwelling unit* with no *dwelling unit* exceeding 800 square feet; with a portion of the *lot* located within a *Transit Priority Area*; and where the *premises* can be serviced by all required utilities, a *density* bonus of up to 100 percent of the pre-*density* bonus *dwelling units* shall be granted. The post-*density* bonus *dwelling units* shall be micro-units as described above. For *development* meeting the same criteria within the Centre City Planned District Ordinance, the *development* must comply with Section 156.0309(e)(1)(C).

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

(m) through (n) [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 ~~S~~section.

(a) [No change in text.]

(b) Items not considered incentives by the City of San Diego include, but are not limited to, the following:

(1) A waiver of a required permit, except as permitted by Sections 132.1202(b) and 132.1402(b);

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

(c) An incentive requested as part of a *development* meeting the requirements of Section 143.0720 shall be processed according to the following:

(1) [No change in text.]

~~(2) The granting of an incentive shall not require a General Plan amendment, zoning change, a *development permit*, or other discretionary approval.~~

~~(3)~~ When a *development permit* is otherwise required, the decision to deny a requested incentive shall be made by the decision maker for the *development permit*.

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

Table 143-07A

**Very Low Income Density Bonus
Households**

[No change in text.]

Table 143-07B

Low Income Density Bonus Households

Percent <i>Low Income</i> Units	Percent <i>Density Bonus</i>	Number of Incentives
10 through 16	[No change in text.]	
17	[No change in text.]	4 <u>2</u>
18	[No change in text.]	4 <u>2</u>
19	[No change in text.]	4 <u>2</u>
20 through 23	[No change in text.]	
³≥ 24 – 29 <u>30</u>	[No change in text.]	2 <u>3</u>
≥30	50 ²	3
31 - 32	[No change in text.]	
³ ≥ 33	[No change in text.]	

Footnotes for Table 143-07B

[No change in text.]

Table 143-07C

**Moderate Income Density Bonus
Households**

[No change in text.]

§143.0745 Locating Required Affordable Dwelling Units Off-site

A *development* that complies with the Affordable Housing Regulations may provide all or a portion of the required affordable *dwelling units* off-site in accordance with the following:

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

(c) At a minimum, the same number of affordable *dwelling units* required of the *development* must be provided, at the same affordability levels and the same total *bedroom* count as the *development*. The *applicant* may provide different *bedroom* mixes to meet the total *dwelling unit* and *bedroom* count minimums. For purposes of calculating total *bedroom* count, an affordable studio shall count as 60 percent of an affordable *bedroom* and an affordable *SRO hotel room* shall count as 40 percent of an affordable *bedroom*. Any calculations resulting in fractional units shall round up to the next whole number.

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

§143.1001 Purpose, Intent, and Definitions

(a) [No change in text.]

(b) Definitions. For purposes of this Division, the following definitions shall apply:

(1) [No change in text.]

(2) FAR Tier 2 means any *premises* where any portion of the *premises* is located in a regional or subregional employment area, as identified in the General Plan Economic Prosperity Element, or within a one-mile radius of any university campus that includes a medical center and is within a *Transit Priority Area* that is located in ~~an area~~ a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3) ~~as Mobility Zone 3~~.

- (3) FAR Tier 3 means any *premises* where any portion of the *premises* is located in an area located within a *Transit Priority Area* that is located in ~~an area~~ a community planning area within Mobility Zone 3 as defined in Section 143.1103(a)(3) ~~as Mobility Zone 3~~.
- (4) FAR Tier 4 means any *premises* where any portion of the *premises* is located in an area located within a *Transit Priority Area* that is located in ~~an area~~ a community planning area within Mobility Zone 4 as defined in Section 143.1103(a)(4) ~~as Mobility Zone 4~~.
- (5) [No change in text.]

§143.1002 Application of Complete Communities Housing Solutions Regulations

- (a) through (b) [No change in text.]
- (c) The regulations in this Division may be utilized to add *gross floor area* to an existing *development* through the construction of additional *dwelling units*. The additional *gross floor area* allowed shall be determined as follows:
 - (1) The additional *gross floor area* is determined by multiplying the remaining *lot area* (excluding existing landscaping, open space amenities, and sidewalks) by the applicable *floor area ratio* in Section 143.1010(a). The remaining *lot area* is the difference between the *lot coverage* of the existing *development* and the *lot area*.
 - (2) [No change in text.]
- (d) [No change in text.]

- (e) The required number of affordable *dwelling units* shall be calculated in accordance with Section 143.1015 ~~based upon the number of *dwelling units* proposed in accordance with Sections 143.1002(c)(1) and 143.1002(c)(2).~~ For the purposes of calculating the required number of affordable *dwelling units*, all *density* calculations resulting in fractional units shall be rounded up to the next whole number. Existing covenant--restricted affordable *dwelling units* shall not be counted towards the affordable housing requirement in this Division.
- (f) [No change in text.]

§143.1005 Required Replacement of Existing Affordable Units

- (a) An *applicant* is ineligible for any incentive under this Division if the *premises* on which the *development* is proposed contains, or during the seven years preceding the application, contained, rental *dwelling units* that have had the rent restricted by law or covenant to persons and *families* of ~~*moderate income, low income, or very low income,*~~ or have been occupied by persons and *families* of ~~*moderate income, low income, or very low income,*~~ unless the proposed *development* replaces the affordable *dwelling units*, and either:
 - (1) through (2) [No change in text.]
- (b) [No change in text.]

§143.1010 Incentives in Exchange for Transit Priority Area Affordable Housing and Infrastructure Amenities

An *applicant* proposing *development* that is consistent with the criteria in Section 143.1002 shall be entitled to the following incentives:

- (a) through (d) [No change in text.]
- (e) Waiver of ~~the personal storage area requirement in Section 131.0454 and~~ the private exterior open space requirement in Section 131.0455 for all *dwelling units* in the *development* if at least 10 percent of the total *dwelling units* in the *development* are at least three bedroom dwelling units.
- (f) [No change in text.]
- (g) Waiver of Development Impact Fees for all covenant-restricted affordable *dwelling units* and all *dwelling units* that do not exceed 500 square feet, if the development provides a residential density that is at least 120 percent of the maximum permitted density of the applicable base zone or Planned District.
- (h) Waiver of the Neighborhood Enhancement Fee for *development* that meets the affordable housing requirements set forth by this Division and restricts 100 percent of the *dwelling units*, not including any managers units, to households earning no more than 50 percent of the area *median income*.
- (i) Use of up to five Affordable Housing Incentives. An *applicant* utilizing the regulations in this Division shall be entitled to incentives as described in Section 143.1010(i) 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* in accordance with Section 143.1010(i).

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

(4) The number of incentives available are as follows:

(A) [No change in text.]

(B) Three incentives for a *development* that includes at least ~~40~~ 30 percent of the pre-density *dwelling units* for lower income households, with at least 20 percent reserved for *very low income* households.

(C) Four incentives for a *development* in which at least ~~50~~ 40 percent of the covenant-restricted *dwelling units* are at least three *bedrooms*.

(D) [No change in text.]

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

§143.1015 Required Provision of Affordable Dwelling Units

(a) In accordance with Section 143.1002(a)(1), an *applicant* requesting application of the regulations in this Division shall provide a written agreement to provide affordable *dwelling units*, entered into by the *applicant* and the President and Chief Executive Officer of the San Diego Housing Commission and secured by a deed of trust, that meets the following requirements:

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

(4) As an alternative to the requirements 143.1015(a) (1)-(3), an applicant may provide at least 40 percent of rental dwelling units in the development, excluding any additional dwelling units

allowed under a floor area ratio bonus, for rent by low income households at a cost, including an allowance for utilities, that does not exceed 30 percent of 50 percent of the area median income, as adjusted for household size.

~~(4)~~(5) The number of required affordable *dwelling* units for *development* located in FAR Tier 1 shall be determined by multiplying the proposed number of *dwelling units* ~~permitted in the development~~ with the maximum base *floor area ratio*, illustrated in Figure H of the Centre City Planned District Ordinance, then dividing by the proposed floor area ratio of the development and multiplying by the percentages of affordable *dwelling units* required in Section 143.1015(a)(1-~~2~~3).

~~(5)~~(6) For rental *dwelling units* to be counted as affordable and meet the requirements of this Division, the following qualifying criteria shall be met:

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

(b) [No change in text.]

(c) Notwithstanding Section 143.1015(a), as an alternative to the requirements in Section 143.1015(a)(1)-(3), an applicant may provide 100 percent of the total dwelling units, not including any managers units, in the development for rent by low income households, including an allowance for utilities, that does not exceed 30 percent of 60 percent of the area median income, as adjusted for household size.

§143.1020 Required Provision of Infrastructure Amenities

In accordance with Section 143.1002(a)(2), an *applicant* requesting application of the regulations in this Division shall provide infrastructure amenities as follows:

- (a) Neighborhood Enhancement Fund. All *developments* shall pay a fee to the “Neighborhood Enhancement Fund”, as established by City Council Resolution R-313282. ~~This fund shall be used for design, construction, or maintenance of neighborhood serving infrastructure amenities.~~
 - (1) ~~The fee shall be set at \$9.00 per square foot of lot area. Structures over 95 feet in height shall pay an additional 25 percent of the established fee.~~
 - (2) ~~The fees paid shall be divided with 50 percent of the fee invested in infrastructure improvements within the same community planning area as the development, and 50 percent of the fee invested in infrastructure improvements within Communities of Concern, as determined by the City Manager, until it is defined in the City’s General Plan.~~
- (b) Public promenade alternative. In lieu of the fee described in Section 143.1020(a), *development* on a *premises* of 25,000 square feet in area or larger with at least 200 linear feet of *street frontage* or a separately-owned parcel within the *Transit Priority Area* where the *development* is located and with an equivalent-sized *premises* of the *development* or larger with at least 200 linear feet of *street frontage*, may construct public amenities in the form of a public promenade.

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

(7) A promenade is a public open space that adjoins or is visible from a public *right-of-way* along the longest *street frontage*. The promenade shall meet the following standards and will be exempt from Council Policy 600-33.

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

(L) At least one of the following recreation amenities must be provided:

- (i) Playground equipment;
- (ii) Fitness circuit equipment;~~or~~
- (iii) Game equipment, such as a bocce ball court or an oversized chess set;~~;~~
- (iv) Basketball court (half or full court);
- (v) Rock climbing wall; or
- (vi) Skate plaza.

(M) At least one of the following additional amenities must be provided:

- (i) Water feature;
- (ii) Recreational interactive Art installation;~~or~~
- (iii) Food and beverage kiosk;~~;~~
- (iv) Parkour course;
- (v) Pump track; or
- (vi) At least four (4) educational kiosks.

(N) through (P) [No change in text.]

(8) [No change in text.]

§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize ~~incentives~~ ~~or the~~ waivers provided in Section 143.1010(h) to deviate from the requirements in Section 143.1025.

(a) Pedestrian Circulation Space. All *development* shall include the following pedestrian circulation improvements:

(1) [No change in text.]

(2) Street Trees. At least one, 24-inch box canopy form tree is required for each 250 feet of ~~street frontage on each side of the required sidewalk~~ street frontage. The street frontage excludes curb cuts and required clearances for designated bus stops. The trees shall be placed on each side of the sidewalk where feasible. The installed tree spacing and location may be varied to accommodate site conditions or design considerations.

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

(5) Each dwelling unit on the ground floor fronting a public right-of-way or a private drive shall have a separate ground floor entrance or path adjacent to the public right-of-way or a private drive.

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

(d) Buffer from Adjacent Freeways. *Development*, except for *development* within the Centre City Planned District, on a *premises* within ~~100~~50 feet of a freeway shall comply with the following:

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

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

§143.1030 Division Inapplicability

This Division shall be applicable and effective for all eligible ~~premises~~ premises located in all community planning areas, except for in those community planning areas that contain any portion of a Community of Concern, the Division shall only be applicable and effective until the community planning areas ~~has~~have reached 80 percent of the housing capacity identified for the community planning area in the City's Adequate Sites Inventory in the General Plan Housing Element, as determined by the Planning Director, or nine years from the effective date, whichever is later, unless an extension is approved by ~~a majority of the City Council.~~

§143.1103 Mobility Choices Requirements

(a) [No change in text.]

(b) Except as provided in Section 143.1103(b)(5) or (b)(6), all *development* located within Mobility Zone 2 or Mobility Zone 3 shall provide VMT Reduction Measures in accordance with Land Development Manual, Appendix T as follows:

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

(6) Development in Mobility Zone 3-2 that provides more than the minimum parking required in Chapter 14, Article 2, Division 5 shall ~~not~~ be required to provide ~~the 8 points of~~ VMT Reduction Measures in Section 143.1103(b)(2), but shall pay the Active Transportation In Lieu Fee referenced in Section 143.1103(e) accordance with the Land Development Manual, Appendix T. For purposes of this section, the Parking Standards Transit Priority Area regulations within Sections 142.0525 and 142.0528 shall not apply for the minimum required parking for multiple dwelling units.

(7) Development in Mobility Zone 3 that provides more than the minimum parking required in Chapter 14, Article 2, Division 5 shall be required to provide 11 points of VMT reduction measures in accordance with the Land Development Manual, Appendix T or shall pay the Active Transportation In Lieu Fee referenced in Section 143.1103(c). The Parking Standards Transit Priority Area regulations within Sections 142.0525 and 142.0528 shall not apply for the minimum required parking for multiple dwelling units.

(c) Unless exempt under Section 143.1103(c)(2), (3), (4), or (5) all development in Mobility Zone 4 shall pay an Active Transportation In Lieu Fee, as adopted by City Council resolution.

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

(5) Development in Mobility Zone 4 that includes the design and construction of active transportation and VMT-reducing infrastructure located within Mobility Zone 1, Mobility Zone 2, or Mobility Zone 3 that reduces the development's required regional average reduction for either resident VMT per capita or employee VMT per employee, as applicable to the development and as determined by the City Manager, is exempt from the Active Transportation In Lieu Fee in Section 143.1103(c) for the VMT that is reduced by the active transportation and VMT-reducing infrastructure, if the City Manager determines all of the following requirements are satisfied:

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

(D) The applicant completes the active transportation and VMT-reducing infrastructure prior to requesting final inspection for any portion of the development.

(6) [No change in text.]

§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 through *Floor plate* [No change in text.]

~~*Group living* means residential or institutional uses licensed by the State of California that provide supportive residential facilities to specified sections of the population.~~

Greenway means a *street* that enhances the pedestrian travel experience for people of all abilities, serves as a linear park, and is identified as a “Proposed Greenway” in the Downtown Community Plan.

Home occupations through Owner Participation Agreement (OPA) [No change in text.]

~~*Performance Path* means a way to demonstrate that a *development* has exceeded the California Green Building Standards Code (CALGreen) by achieving a targeted level of performance in an existing voluntary green building rating system.~~

PETCO Park [No change in text.]

~~*Prescriptive Path* means a way to demonstrate that a *development* has improved performance in one or more green buildings options that exceed the California Green Building Standards Code (CALGreen) by selecting from a list of eligible program *Sustainability Indicators*.~~

Private open space through Urban open space [No change in text.]

§156.0304 Administration and Permits

(a) [No change in text.]

(b) Permit Required

The following permits are subject to the *development* review and permit procedures in this Article: Neighborhood Development Permits,

Neighborhood Use Permits, Conditional Use Permits, Coastal Development Permits, Site Development Permits, Planned Development Permits, and Variances.

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

(3) Building Permits for new development that exceed \$20 million in value located along a greenway shall meet all of the following requirements, as applicable:

(A) For development located along 14th Street, fronting public improvements consistent with the 14th Street Promenade Master Plan shall be provided.

(B) For development located along E Street, fronting public improvements consistent with the E Street Greenway Master Plan shall be provided.

(C) For development located along any other greenway identified in the Downtown Community Plan, the following fronting public improvements shall be provided:

(i) Widening of the sidewalk to accommodate the public improvements identified in this Section 156.0304(b)(3)(C).

(ii) A double row of canopy street trees on each side of the sidewalk to the satisfaction of the Director of the Development Services Department.

- (iii) Street furniture on each fronting premises, including at least two of the following: fixed seating; interactive wayfinding signs; bicycle racks; bicycle repair station; dog relief area; interactive artwork; interpretive elements; educational kiosk; or other design features to sit, rest or play, such as swings, seat walls, ledges, or seating steps.
- (iv) Pedestrian-scale lighting.
- (v) At least two of the following recreation amenities: play equipment; sensory play feature; fitness circuit equipment; dog run; or parkour course.
- (vi) Stormwater treatment features such as bioswales.
- (D) The greenway and associated public improvements shall be privately-maintained and publicly-accessible in perpetuity. The applicant shall obtain a Public Right-of-Way Permit and enter into an Encroachment Maintenance and Removal Agreement in accordance with Chapter 12, Article 9, Division 7.
- (E) Tenant improvements are exempt from the requirement to include public improvements along a greenway as described in Section 156.0304(b)(3).

(F) The City Manager may waive the requirement to include public improvements along a greenway as described in Section 156.0304(b)(3) if the installation of public improvements would create undesirable drainage or traffic or pedestrian circulation conditions, as determined by the City Engineer.

(G) An applicant that provides public improvements in accordance with this section shall either be exempt from or subject to a proportionate share credit of the DIF for the Citywide Park Development Impact Fee as set forth in Section 142.0640(b)(6) or shall be eligible for an FAR Bonus of 2.0 to be added to the maximum Base FAR as set forth in Section 156.0309(e)(9). For purposes of this subsection, to be exempt or partially exempt from the requirement to pay the Citywide Park DIF, the requirements set forth in Section 142.0640(b)(6)(A)-(C) shall not apply.

~~(3)~~(4) All development in in the Centre City Planned District shall comply with and incorporate the ~~historical resources~~ mitigation measures listed in the Mitigation, Monitoring, and Reporting Program (MMRP) listed as Appendix A in the Downtown Community Plan, as may be amended.

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

§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. 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. 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*.~~ unless at least one of the following conditions are met:

- (A) The *development* includes no less than 90 percent of the Base Maximum *floor area ratio* and a minimum of 70 percent of the ground-*floor street frontage* contains commercial uses as permitted in the base zone, of which up to 30 percent of the ground-*floor street frontage* may consist of *shopkeeper units* or live/work quarters.

(B) Development that converts floor area in an existing structure, regardless of the percentage of base maximum floor area ratio, if the development provides either five percent very-low income, ten percent low-income, or fifteen percent moderate-income affordable units on-site in accordance with the criteria in Section 143.0720(c) and (d). An expansion of the existing structure shall be allowed subject to all applicable regulations.

(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:

(1) [No change in text.]

(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 structures on the premises* through a Process Two Neighborhood Use-Development Permit.

(3) [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	N C	E R	BP	WM 7	M C	RE	I ⁷	T ⁷	P C	O S	CC ⁷	Additional Regulations	MS/CS & E Overlays		
Public Park/ Plaza/Open Space through Residential	[No change in text.]															
<i>Group Living Rooming House</i>	L	L	L	L	--	L	L	--	--	L	--	--				
<i>Multiple Dwelling Units</i>	[No change in text.]															
<i>Shopkeeper Units through Off-Site Alcohol Beverage Sales</i>	[No change in text.]															
Commercial Services																
Animal Grooming & Veterinary Offices through <i>Hotels</i> and <i>Motels</i>	[No change in text.]															
Separately Regulated Commercial Service Uses																
<u>Boarding Kennels/Pet Day Care Facilities</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>==</u>	<u>==</u>	<u>L</u>	<u>==</u>	<u>==</u>	<u>§141.0604</u>	CS, E
<u>Veterinary Clinics & Animal Hospitals & Kennels</u>	<u>N</u> <u>L</u>	- <u>L</u>	<u>N</u> <u>L</u>	<u>N</u> <u>L</u>	--	<u>N</u> <u>L</u>	<u>N</u> <u>L</u>	--	--	--	--	--	<u>§141.0604</u> (b)(1) <u>§141.0625</u>	CS, E		
Assembly Uses, including Places of Religious Assembly through Temporary Construction Yards	[No change in text.]															
Industrial																
<u>Artisan Food and Beverage Producer</u> ¹²	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>==</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>L</u>	<u>§141.1001</u>	<u>CS, E</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	N C	E R	BP	WM 7	M C	RE	I ⁷	T ⁷	P C	O S	CC ⁷	Additional Regulations	MS/CS & E Overlays
Heavy Manufacturing	[No change in text.]													
Light Manufacturing	<u>---</u> P	--	<u>---</u> P	<u>---</u> P	P	P	--	P	P	--	--	--		
Marine Industry	[No change in text.]													
Research & Development	P	<u>---</u> P	P	P	<u>---</u> P	P	--	P	P	<u>---</u> P	--	--		E
Testing Labs	-	-	-	-	-	-	-	-	-	-	-	-		
Trucking and Transportation Terminals through Temporary Uses and Structures	[No change in text.]													

Footnotes for Table 156-0308-A

¹ through ⁷ [No change in text.]

⁸ Structured parking facilities incorporated into a *development* as an *accessory use* or as part of a mixed-use development that contains at least 50 percent employment uses shall be permitted by right and do not require a Conditional Use Permit.

⁹ through ¹¹ [No change in text.]

¹² Accessory retail sales or commercial uses that are accessible to the general public are required along a minimum 25 percent of any street frontage.

§156.0309 FAR Regulations and TDRs

(a) through (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

TABLE 156-0309-A: FAR BONUS	
Public Benefit/ <i>Development</i> Amenity	<i>FAR Bonus</i> (to be added to maximum <i>Base FAR</i>)
Affordable Housing through <i>FAR</i> Payment Bonus Program [No change in text.]	[No change in text.]
Green Building Sustainable Building	[No change in text.]
<u>Public Improvements along a Greenway</u>	<u>2.0 (See 156.0309(e)(9))</u>

(1) Affordable Housing. An *applicant* proposing a residential *development* that is entitled to a *density* bonus pursuant to the Affordable Housing Regulations (AHR), Chapter 14, Article 3, Division 7 of the Land Development Code, may increase the permitted *FAR* as specified below.

~~In compliance with the State Density Bonus Law (California Government Code Section 65915), applicants may earn FAR bonus subject to the following:~~

- (A) *Development* utilizing the *density* bonus provisions of Tables 143.07A, 143.07B, and 143.07C of ~~Chapter 14, Article 3, Division 7~~ the AHR shall be entitled to a percent *FAR bonus* equivalent to the percent *density* bonus cited in these tables subject to meeting all other provisions of ~~Chapter 14, Article 3, Division 7~~ the AHR.
- (B) *Development* may provide either rental or for-sale affordable *dwelling units*, regardless of whether the market rate *dwelling units* within the *development* are for rent or sale. *Development* under these provisions shall be subject to the following requirements in addition to those in ~~Chapter 14, Article 3, Division 7~~ the AHR:
- (i) The permitted *FAR* for a *development* containing affordable housing shall be calculated as follows:
Permitted *FAR* equals Pre-AHR bonus *FAR* minus the non-residential ~~FAR~~FAR, then multiplied by the AHR bonus percentage, then that total is added to the Pre-AHR bonus *FAR*.
For the purposes of the above calculation:
Pre-AHR bonus *FAR* means the Maximum *Base FAR* found in Figure H plus any additional *bonus FAR* permitted in Figure K earned through Section 156.0309(e) and Section 156.0309(g).

AHR bonus percentage means the percentage bonus for affordable housing found in Tables 143-07A, 143-07B, and 143-07C in the ~~Affordable Housing Regulations~~ (AHR).

- (ii) The number of required affordable *dwelling units* in a *development* utilizing the ~~Affordable Housing Regulations in Chapter 14, Article 3, Division 7~~ AHR is calculated as follows:

Number of required affordable *dwelling units* equals Pre-AHR bonus *FAR* minus the non-residential *FAR*, then divided by the *development's* proposed residential *FAR*, then multiplied by the number of proposed *dwelling units* in the *development*, then multiplied by the AHR bonus percentage.

- (iii) through (iv) [No change in text.]

(C) [No change in text.]

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

- (5) *Employment Uses*. To encourage the *development* of *employment uses* in the Centre City Planned District, a *FAR bonus* may be earned for the provision of *employment uses* within the *development*. In the Employment Overlay District, *development* containing 100 percent *employment uses*, excluding *hotel/motel* uses, may increase their *FAR* by the maximum *FAR* illustrated on

Figure L. In all other areas of the Centre City Planned District, any *development* that contains at least 50 percent excluding *hotel/motel* uses, may increase their maximum *FAR* to the maximum *FAR* illustrated in Figure L and may utilize the *development* regulations within the Large Floorplate Overlay District.

(6) 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:~~

(8) (A) *Performance Path.* ~~The *Performance Path* allows *applicants* to Sustainable Building. *Development* that demonstrates a high level of building sustainability by achieving a targeted level of performance in an existing voluntary green building rating system. Approved rating systems include may qualify for a *FAR bonus* of 1.0 or 2.0, subject to the following criteria:~~

(A) ~~(i)~~ California Green Building Standard Code (CALGreen) Tier I & II: As adopted by the State of California, CALGreen includes voluntary performance tiers; *Development* that complies

~~with CALGreen Tier II is a higher level of performance than Tier I may earn a FAR bonus of 1.0.~~

~~(B) (ii) LEED®: The US Green Building Council (USGBC) manages LEED® Core & Shell and LEED® for new construction.~~

~~Development that achieves LEED® Silver certification may earn a FAR bonus of 1.0 and development that achieves a LEED® Gold or higher certification may earn a FAR bonus of 2.0.~~

~~(B) *Prescriptive Path* allows applicants to select from a menu of green building options that improve performance in one or more CCG Sustainability Indicators. Each prescriptive measure is assigned a point value that represents the extent of impacts to the CCG Sustainability Indicators. Incentives earned depend upon the combined point total of the measures selected by the applicant. For specific details about the green building options, see the CCG Submittal Manual adopted by the former Centre City Development Corporation Board on July 27, 2011 on file in the office of the City Clerk as Document No. OO 20117. Performance levels determine the extent of FAR bonuses and are based on total points earned within the *Performance Path* or~~

Prescriptive Path. The *FAR Bonus* for both the *Prescriptive* and *Performance Paths* are summarized in Table 156-0309-C.

Table 156-0309-C: GREEN BUILDING FAR BONUS			
Performance Level	<i>Prescriptive Path</i> Requirements	<i>Performance Path</i> Requirements	<i>FAR Bonus</i>
High Performance Green	45-59 CCG Points	CALGreen Tier 2 or <i>LEED®</i> Silver	1.0
Signature Green	60+ CCG Points	<i>LEED®</i> Gold or higher	2.0

~~(C)~~ To qualify for incentives, an applicant must select either the *Prescriptive* or *Performance Path* (Paths cannot be combined) at the time of *development* application and complete the steps as outlined in the CCG Submittal Manual.

~~(D)~~ (D) CC&Rs shall be recorded on the property providing for the *development* and perpetual maintenance of all measures that are identified to earn a *FAR Bonus*. These provisions of the CC&Rs shall be approved by the City Manager and the City Attorney’s Office.

~~(E)~~ All vegetation that is an integral part of a selected path must be maintained in perpetuity.

(~~F~~D) If an *applicant* applies for an extension of time under Section 156.0304(e)(1)(F), the *development* shall be subject to all applicable provisions of Section 156.0309(e)(8) at the time the application for the extension is filed.

(~~G~~E) *LEED*[®] Certification Performance Guarantee.

Applicants requesting an *FAR Bonus* who propose to utilize ~~the *Performance Path* through~~ *LEED*[®] certification shall, prior to issuance of any ~~Building~~ Building ~~Permits~~ Permits, provide a financial surety, deposit, or other suitable guarantee approved by the City Manager and the City Attorney's Office to ensure that the *applicant* completes the *LEED*[®] certification for the *development* as proposed to obtain an *FAR Bonus* under this ~~S~~Section.

LEED[®] certification must be demonstrated through an independent report provided by the USGBC that confirms achievement of a *LEED*[®] Silver or Gold (or higher) level of performance. The financial surety, deposit, or other suitable guarantee shall be in an amount equivalent to the value which would be required to purchase an equivalent amount of *FAR* under the *FAR* Payment Bonus Program, including any subsequent amendments in effect at the time of the *development* ~~permit~~ permit application. Within 180

days of receiving the final Certificate of Occupancy for a *development*, the *applicant* shall submit documentation that demonstrates achievement of the applicable *LEED*[®] rating as proposed under this Section.

If the *applicant* fails to submit a timely report or demonstrate *LEED*[®] certification, payment shall be deducted against the financial security, deposit, or other suitable guarantee and deposited in the *FAR Bonus* Fund established under the *FAR* Payment Bonus Program. The amount of payment shall be calculated according to the following formula:

$$P = FAR \$ \times ((LCP - CPE) / LCP)$$

P = the payment amount which shall be paid to the *FAR Bonus* Fund

FAR \$ = the amount of money which would be required to purchase *FAR* under the *FAR* Payment Bonus Program

LCP = *LEED*[®] Certification Points needed to achieve the proposed *LEED*[®] certification level (Silver or Gold)

CPE = *LEED*[®] Certification Points actually earned by the *development* as certified by the USGBC

All funds provided by the *applicant* for the *LEED*[®] certification surety, deposit, or other suitable guarantee that are not paid to the *FAR Bonus* Fund shall be refunded to the *applicant*. In the event that the *applicant* submits a timely report and demonstrates the necessary level of

LEED[®] certification for the *applicant's* desired *FAR Bonus*, the entire amount of the surety, deposit, or other suitable guarantee shall be refunded to the *applicant*.

(9) *Greenways. Development that includes public improvements consistent with Section 156.0304(b)(3)(A) through (D), shall be entitled to an FAR Bonus of 2.0.*

(f) Exemptions from *FAR* Calculations

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

(1) *Historical Buildings.* ~~Any~~ The floor area within the historic building envelope of any designated historical resource shall not be counted as gross floor area for the purposes of calculating the FAR for the development, if the designated historical resource is preserved, rehabilitated, restored, or reconstructed-modified and the development results in no more than minor alterations to the designated historical resource consistent with the Secretary of the Interior's Standards and Guidelines, or the development is approved through the Site Development Permit or Neighborhood Development Permit procedures, in accordance with Chapters 11 through 14, Article 3, Division 2 of the Land Development Code. The floor area within the historic building envelope may also be exempted from the FAR calculations if the designated historical resource is reconstructed consistent with the Secretary of the Interior's Standards and Guidelines as part of the development.

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

(g) [No change in text.]

§156.0310 Development Regulations

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

(3) *Private Open Space*. At least 50 percent of all *dwelling units* shall provide *private open space* on a balcony, patio, or roof terrace, with a minimum area of 40 square feet each and an average horizontal dimension of 6 feet in depth and width. Balconies should be proportionately distributed throughout the *development* in relationship to *floor* levels and sizes of units. *Living unit developments* are exempt from this requirement.

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

(6) Commercial buildings that have been used for commercial uses for at least five years may be converted to a residential use without meeting the requirements listed in Section 156.0310(g)(1) through (5).

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

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

- (a) Residential *Off-Street Parking* Space Requirements.

The parking requirements in Table 156-0313-A and Section 156.0313(a) shall apply to residential uses. *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.

TABLE 156-0313-A

RESIDENTIAL OFF-STREET PARKING SPACE REQUIREMENTS

[No change in text.]

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

- (3) 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 156-0313-A if all of the following ~~apply~~ provisions are met:

- (A) The *development floor area ratio* is no less than 80 percent of the base maximum *floor area ratio*; ~~and~~
- (B) [No change in text.]
- (C) The *development* provides transportation amenities in accordance with ~~Section 142.0528(e)~~ Land Development Manual Appendix Q worth at least four points; ~~and~~

(D) *All off-street parking spaces* that exceed the allowed maximum shall be within an underground parking garage on the same *premises*; and

(E) The *development* shall pay the Active Transportation In Lieu Fee referenced in Section 143.1103(c).

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

§156.0315 Separately Regulated Uses

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

(g) *Living Units*

Living unit developments are permitted in the zones indicated in Table 156-0308-A subject to the following regulations:

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

(11) Each *living unit* occupancy and rent, exclusive of the manager's unit or units, shall be restricted to those persons with household income at or below 80 percent of area median income as published by the California Department of Housing and Community Development for San Diego County, as adjusted for a one-person household. The *development* owner shall enter into an agreement with the City of San Diego Housing Commission for the review and enforcement of such restrictions for a period of at least 55 years.

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

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

§157.0304 Permitted Uses

Notwithstanding the uses allowed in Chapter 15, Article 1, Divisions 1 and 4, no building or improvement or portion thereof shall be used except as permitted by this Division. Permitted ground floor uses in the Gaslamp Quarter Planned District are limited to active commercial uses such as restaurants and retail of consumer goods and services. No single user or business shall occupy more than 10,000 square feet on the ground floor of a building except as provided in Section 157.0305(d).

(a) Permitted Uses on Any Floor of a Building Retail

Retail of consumer convenience goods and dispensing of consumer services from the following establishments located on any floor of a building:

(1) through (17) [No change in text.]

(18) entertainment centers, either freestanding or operating in conjunction with any other permitted use, ~~which utilize electronic or mechanical games of skill or amusement not to exceed five (5) devices;~~

(19) through (53) [No change in text.]

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

§1510.0107 Applicable Regulations

(a) Where not otherwise specified in the La Jolla Shores Planned District, the following provisions of the Land Development Code apply:
Chapter 11 (Land Development Procedures);

Chapter 12 (Land Development Reviews);
Chapter 13, (Zones);
Chapter 14, Article 2, Division 1 (Grading Regulations);
Chapter 14, Article 2, Division 2 (Drainage Regulations);
Chapter 14, Article 2, Division 3 (Fence Regulations);
Chapter 14, Article 2, Division 5 (Parking Regulations);
Chapter 14, Article 2, Division 6 (Public Facility Regulations);
Chapter 14, Article 2, Division 8 (Refuse and Recyclable Materials
Storage Regulations);
Chapter 14, Article 3 (Supplemental Development Regulations);
Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands
Regulations);
Chapter 14, Article 4 (Subdivision Regulations);
Chapter 14, Article 5 (Building Regulations);
Chapter 14, Article 6 (Electrical Regulations); and
Chapter 14, Article 7 (Plumbing and Mechanical Regulations).

(b) [No change in text.]

§1510.0301 General Design Regulations

Concurrent with the adoption of the La Jolla Shores Planned District Ordinance, the City Council adopted architectural and design standards, by resolution, to be used in evaluating the appropriateness of any development for which a permit is applied under the La Jolla Shores Planned District Ordinance; such architectural

and design standards ~~shall be~~ has been filed in the office of the City Clerk as a ~~numbered document~~ Document No. 747629.

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

§1510.0304 Single-Family Zone-Development Regulations

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

(i) Maximum Floor Area Ratio

(1) Floor Area Ratio for the Single-Family Zones

(A) The maximum permitted floor area ratio is based on the lot area in accordance with Table 131-04J:

Table 131-04J

<u>Lot Area (square feet)</u>	<u>Floor Area Ratio</u>
<u>3,000 and less</u>	<u>0.70</u>
<u>3,001 - 4,000</u>	<u>0.65</u>
<u>4,001 - 5,000</u>	<u>0.60</u>
<u>5,001 - 6,000</u>	<u>0.59</u>
<u>6,001 - 7,000</u>	<u>0.58</u>
<u>7,001 - 8,000</u>	<u>0.57</u>
<u>8,001 - 9,000</u>	<u>0.56</u>
<u>9,001 - 10,000</u>	<u>0.55</u>
<u>10,001 - 11,000</u>	<u>0.54</u>
<u>11,001 - 12,000</u>	<u>0.53</u>
<u>12,001 - 13,000</u>	<u>0.52</u>
<u>13,001 - 14,000</u>	<u>0.51</u>
<u>14,001 - 15,000</u>	<u>0.50</u>
<u>15,001 - 16,000</u>	<u>0.49</u>
<u>16,001 - 17,000</u>	<u>0.48</u>
<u>17,001 - 18,000</u>	<u>0.47</u>

<u>Lot Area</u> <u>(square feet)</u>	<u>Floor Area Ratio</u>
<u>18,001 - 19,000</u>	<u>0.46</u>
<u>19,001 and greater</u>	<u>0.45</u>

§1516.0107 Administration and Permits

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

**Table 1516-01A
Type of Development Proposal and Applicable Regulations**

	Type of Development Proposal	Applicable Sections	Required Permit/ Decision Process
1.	[No change in text.]		
2.	[No change in text.]		
<u>3.</u>	<u>Signs</u>	<u>1516.0139, 1516.0140, and Appendix E</u>	<u>Sign Permit/Process One</u>
<u>34.</u>	[No change in text.]		
<u>45.</u>	<ul style="list-style-type: none"> • New construction of any building or primary structure • New construction of any habitable accessory structure • New construction of any non-habitable accessory structure that exceeds 100 square feet in gross floor area • New construction of any non-habitable accessory structure that would be visible from the public right-of-way • Signs • Walls or fences • Any addition to or alteration of any non-historical structure which is <i>major in scope</i> 	1516.0124, 1516.0125, 1516.0126, 1516.0127, 1516.0128, 1516.0130-1516.0140 38 , Appendix A, Appendix B, Appendix C, Appendix D, Appendix E , and Appendix F	Neighborhood Development Permit (NDP)/Process Two
<u>56.</u>	[No change in text.]		
<u>67.</u>	[No change in text.]		

§1516.0139 Sign Requirements

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

(d) Permit Application Requirements

(1) All proposed signs, except *temporary signs* and *business operations signs*, require a ~~Neighborhood Development Permit~~ Sign Permit (Process ~~Two~~ One).

(2) [No change in text.]

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

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Or.Dept: Planning
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STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 129.0710; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 141.0420, RELATING TO MINISTERIAL APPROVAL OF INSTALLATION OF EQUIPMENT IN 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) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following, which are subject to approval by the City Engineer in accordance with Process One:
 - (1) through (9) [No change in text.]

(10) Encroachment of equipment necessary for fiber optic development or a wireless communication facility into the public right-of-way by applicants for the fiber optic or wireless communication facility industries that can demonstrate that installation of the equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished grade of the curb line and 4 feet in diameter.

(b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with Section 126.0502(d)(6), except for the following:

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

(6) Encroachment of equipment necessary for fiber optic development or a wireless communication facility into the public right-of-way by applicants for the fiber optic or wireless communication facility industries that can demonstrate that installation of the equipment cannot be undergrounded, as verified by the City Engineer or designee. The equipment shall not exceed 3 feet above the finished grade of the curb line and 4 feet in diameter.

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

§141.0420 Wireless Communication Facilities

Wireless communication facilities shall comply with the approval process set forth in Section 141.0420(a) through (c) as applicable to the *development*. All *wireless communication facilities* are subject to the general regulations in Section 141.0420(d), the general design requirements in Section 141.0420(e) and the *Wireless Communication Facilities* Guidelines in the Land Development Manual. Section 141.0420 does not apply to amateur (HAM) radio communication facilities.

(a) Limited Use Regulations

Wireless communication facilities are permitted as a limited use decided in accordance with Process One as follows:

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

(5) Ground-mounted equipment required for a *wireless communication facility*, other than a pole to which *wireless communication facility* is attached, that meets the requirements in Sections 129.0710(a)(10) and 129.0710(b)(6).

(b) [No change in text.]

(c) Conditional Use Permit Regulations

Wireless communication facilities may be permitted with a Conditional Use Permit as follows:

(1) Decided in accordance with Process Three, where the *development* meets the following locational criteria:

(A) [No change in text.]

(B) In the *public right-of-way* with ground-mounted equipment exceeding 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter; other than a pole to which the *wireless communication facility* is attached.

(2) [No change in text.]

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

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