



San Diego Municipal Code
Land Development Code

**Deviations From
Environmentally Sensitive
Lands Regulations Within
the Coastal Overlay Zone**

Note: This document becomes effective January 2000.

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**DEVIATIONS FROM ENVIRONMENTALLY SENSITIVE LANDS
REGULATIONS WITHIN THE COASTAL OVERLAY ZONE
AMENDMENTS**

The following amendments have been incorporated into this August 2004 posting of this plan:

Amendment	Date Approved by Planning Commission	Resolution Number	Date Adopted by City Council	Resolution Number
Deviations From Environmentally Sensitive Lands Regulations Within the Coastal Overlay Zone adopted.			September 28,1999	R-292251

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INTRODUCTION

Where a deviation is requested from the Environmentally Sensitive Lands Regulations because the applicant contends that application of the regulations would result in denial of all economically viable use, the Coastal Development Permit shall include a determination of economically viable use, subject to the following process:

1. Application of Economically Viable Use Determination

Any applicant that requests a deviation from the Environmentally Sensitive Lands Regulations, based on the contention that the uses permitted by the regulations will not provide an economically viable use of the property, shall apply for an economic viability determination in conjunction with the Coastal Development Permit application. The application for an economic viability determination shall include the entirety of all parcels that are geographically contiguous and held by the applicant in common ownership at the time of the application. Before any application for a Coastal Development Permit and economic viability determination is accepted for processing, the applicant shall provide the following information:

- a. The date the applicant purchased or otherwise acquired the property and from whom.
- b. The purchase price and the documentary transfer tax paid by the applicant for the property.
- c. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at the time.
- d. The general plan, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
- e. Any development restrictions or other restrictions on use, other than government regulatory restrictions described (4) above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
- f. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
- g. A discussion of whether the applicant has sold, leased, or donated a portion of or interest in, the property since the time of purchase indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.

- h. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
- i. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
- j. The applicant's costs associated with the ownership of the property annualized to the extent feasible, for each of the years the applicant has owned the property, including property taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.
- k. Apart from any rent received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over years of ownership of the property. If there is any such income to report, it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.
- l. Topographic, vegetative, hydrologic and soils information prepared by a qualified professional, which identifies the extent of the wetlands on the property.
- m. An analysis of alternatives to the proposed project and an assessment of how the proposed project is the least environmentally damaging alternative. The analysis of alternatives shall include an assessment of how the proposed project will impact all adjacent wetlands and environmentally sensitive habitat areas including those within the overall development plan area.