

**Draft Issue Matrix - 8th UPDATE TO THE LDC
February 6, 2013**

Following is a summary of the 55 amendments organized into Permit Process, Measurement, Parking, Green Building Regulations, Planned District, and Minor Corrections categories. Within each category the amendments are listed in order of the associated code sections to be amended.

No.	PURPOSE	CODE SECTION	AMENDMENT DESCRIPTION
Permit Process Amendments: The following amendments are proposed to improve the permit process and address inconsistencies.			
1	Address Inconsistency/Regulatory Reform	59.5.0202 59.5.0203 59.5.0204 59.5.0206	<p><u>Noise Abatement</u> Clarifies the process for approval of exceptions for noise in cases where there are practical difficulties or unnecessary hardship involved in carrying out the noise abatement requirements if the Administrator finds that the exception will not be contrary to the code purpose and intent or detrimental to the public health, safety, and welfare. Removes outdated Section 59.5.0206, which makes reference to a citywide map of community noise equivalent levels that does not exist. The measurement and regulation of noise levels is adequately covered by existing Noise Element policies in the General Plan, CEQA significance thresholds for new development, and sound level limits for single event noise in Municipal Code Section 59.5.0401.</p>
2	Clarification/Regulatory Reform	111.0106 New 111.0107 112.0305 112.0307	<p><u>Decision Process For Land Development Code Amendments</u> Clarifies the process for amending the Land Development Code and Land Development Manual. In accordance with state law, a Planning Commission hearing must be held prior to City Council action for all zoning ordinances (as defined by California Government Code section 65850). Other LDC amendments that are non-zoning ordinance amendments shall be decided by City Council, but shall not require a Planning Commission hearing. Major amendments to the Land Development Manual would be subject to the equivalent process for non-zoning ordinances. The amendment also adds criteria to help decision makers evaluate whether proposed amendments would maintain the format and philosophy adopted with the original Land Development Code.</p>
3	Comply with State and Federal Law	112.0203	<p><u>Remove Provision for Waiver of Use Permit Fees for Non-Profit Organizations</u> Removes Section 112.0203(b), which allows for a waiver of permit fees for certain non-profit institutions and organizations, to address legal conflicts with the California Constitution.</p>

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4	Clarification/ Regulatory Reform	112.0501 Diagram 112-05A	<p><u>Notice to Planning Groups for Process Two Decisions</u> Clarifies that the notice of future decision for a Process Two application is required to be provided to the applicant, community planning groups within 300 feet of the project, and anyone requesting notice. Diagram 112-05A currently identifies that for Process Two decisions the requirement is for “limited notice to applicant and anyone requesting notice”.</p>
5	Clarification/ Regulatory Reform	112.0504	<p><u>Regulations for Process Two Appeals Decided by City Council</u> Clarifies the process and timing requirements for an appeal hearing when the City Council is identified in the Land Development Code as the decision maker for specified Process Two actions.</p>
6	Regulatory Reform	113.0103 129.0104	<p><u>Administrative Flexibility to Meet Regulatory Intent through Alternative Compliance</u> Provides an administrative process for single dwelling units to grant minor modifications for individual cases where strict application of the land development regulations is impractical. The minor modification must be in conformance with the purpose and intent of the municipal code and adopted land use plans, and shall not lessen any fire protection or public safety requirements. This process would be limited to minor deviations for single dwelling units that still meet the intent of the LDC regulation. This type of approval would not apply to any substantial improvement that meets or exceeds 50 percent of the market value of the structure. Requests that do not meet the specified criteria in Section 129.0104 would instead require application for a variance.</p>
7	Clarification	122.0105 122.0107	<p><u>Decision Process for Land Use Plans</u> Clarifies that requests for land use plans must be initiated in accordance with the initiation process and criteria identified in the General Plan Land Use Element for all land use plans, including specific plans.</p>
8	Regulatory Reform	125.0120	<p><u>Process for Commercial and Industrial Condominium Maps</u> Clarifies that new commercial and industrial condominiums and condominium conversions can be approved through a Process Three map waiver.</p>

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9	Regulatory Reform/ Comply with State Law	125.0124 125.0461 126.0111	<u>Appeal Process for Extension of Time (EOT) Requests</u> Provides a process for City Council decision on all appeals of extensions of time requests. At a minimum, the City must provide for an applicant to appeal a denial of an extension of time request for a tentative map or map waiver in accordance with state law.
10	Regulatory Reform	Title of Div. 10 125.1001 125.1010 125.1030 125.1040	<u>Easement Vacations</u> State law allows for the City to adopt a process different than the Streets and Highway Code for public service easements. The proposed amendment would allow for vacation of some public service easements through a Process Two. Process Five approvals would continue to be required for vacation of any easements that are not public service easements and for vacation of easements with a tentative map per the Subdivision Map Act. As proposed, all easement vacations would be required to provide notice in accordance with LDC Section 112.0301.
11	Regulatory Reform	126.0106	<u>Payment of Required Fees Prior to Recordation of a Development Permit</u> Clarifies that an applicant is required to pay all required development permit fees/charges prior to recordation of the development permit. The code already requires payment prior to issuance of building permits for ministerial actions.
12	Regulatory Reform	126.0110	<u>Cancellation of a Development Permit</u> Amendments would eliminate the requirement that City must wait at least 120 days after the request is received before a development permit can be cancelled.
13	Regulatory Reform	126.0203 129.0203 129.0702 129.0750 131.0522 141.0621	<u>Sidewalk Cafes</u> Reduces the permit process level from a Process Two Neighborhood Use Permit to a Process One limited use for establishments that meet the criteria. Sidewalk cafes would require an Encroachment, Maintenance and Removal Agreement (EMRA) and a Public Right-of-Way permit or Building Permit as applicable to project scope. Amendments would also reduce the minimum width for path of travel from 8 feet to 5 feet, and create an option for sidewalk cafes to set up a single row of tables and chairs within a 4 foot-6 inch extension of the establishment without the need for an expensive fence or landscape planter barrier.

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14	Regulatory Reform	126.0402 141.0420	<p><u>Lower Process for Wireless Communication Facility Equipment Enclosures</u> Provides for a lower process via a Process Two Neighborhood Development Permit for wireless communication projects proposing an equipment enclosure that exceeds 250 square feet. The amendment would also clarify that proposed equipment enclosures may be approved above-grade on city-owned property that has been dedicated in perpetuity by ordinance for park, recreation, or cemetery uses only if a Process Two Neighborhood Development Permit is granted and the Park and Recreation Director determines there would be no conflict with City Charter Section 55 (related to protection of park, recreation and cemetery uses on city park property).</p>
15	Regulatory Reform	127.0102 131.0443	<p><u>Allowance for Limited Development Consistent with Previously Conforming Setbacks</u> The code allows for new development in RM-1 zones to observe a previously conforming side setback for up to 50 percent of the length of the building envelope on a floor by floor basis. As proposed, this flexibility would be extended to all residential zones and previously conforming yards to allow for a limited portion to be permitted in accordance with existing previously conforming setbacks to help maintain the established neighborhood character.</p>
16	Regulatory Reform/ Clarification	129.0202	<p><u>When a Building Permit is Required</u> Clarifies that a Building Permit is required for a structure unless exempted by Section 129.0202(b) or 129.0203. Amendments also clarify that a single Building Permit can cover multiple structures.</p>
17	Regulatory Reform/ Clarification	129.0702 129.0715 129.0720 129.0742	<p><u>Public Service Easement Encroachments</u> Clarifies that proposed private encroachments within a public service easement require approval of a Public Right-of-Way Permit and Encroachment Maintenance and Removal Agreement.</p>
18	Regulatory Reform/ Clarification	129.0710	<p><u>Permit Process for Encroachments (Tie Backs and Temporary Shoring)</u> Clarifies that temporary shoring and tie backs are encroachments in the public right-of-way that require a Public Right-of-Way Permit and Encroachment, Maintenance, and Removal Agreement. Clarifies that applicants that have the written permission of the owner to the underlying fee title are not required to obtain a Site Development Permit for encroachments. Such encroachments are otherwise eligible for lower Process One or Two approvals depending on the project type.</p>

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19	Regulatory Reform/ Clarification	131.0220 131.0320 131.0323 131.0420 131.0423 131.0520 131.0540 131.0620 131.0623	<p><u>Additional Use Regulations for All Base Zones</u> Clarifies that the additional use regulations apply to a land use only if indicated by footnote in the corresponding base zone use table. The issue is that footnotes in the Chapter 13 use tables have been selectively applied to specific land use types in the context of specific base zones to indicate when the additional use regulations apply; however, existing LDC Sections 131.0323, 131.0423, 131.0540, and 131.0623 currently identify that the additional use regulations apply to all development, which was not intended.</p>
20	Regulatory Reform/ Comply with State and Federal Law	131.0222 131.0422 131.0522 131.0622 141.0404 141.0502 141.0702 1510.0303	<p><u>Assembly Uses</u> Amendments address inconsistencies in the zoning use tables to ensure that churches are being regulated similar to other assembly uses. Identify churches as “permitted” in the RM-5 zone for consistency with allowance for private clubs. Identify churches as “permitted” in all CN, CR, CO, CV, and CC zones. Amendments identify churches as “not permitted” in OR zones in order to implement the MSCP subarea plan, which does not list churches or other assembly uses as compatible land uses. Identify churches as “not permitted” in prime industrial land (including all IP zones), and as “permitted” in the IS, IL-2 and 3 zones, except in prime industrial land.</p>
21	Regulatory Reform	131.0322 Table 131-03B Footnote 9 141.0606	<p><u>Child Care Facilities in the Agricultural Zone/Coastal Overlay</u> Currently, child care facilities are not allowed in agricultural-residential (AR) zones within the coastal overlay zone. However, there are circumstances where child care facilities would be appropriate in AR zones. Amendments to Section 141.0606 would allow child care facilities to be developed in accordance with the local coastal program, and not in locations where they would have the potential to impact the open space character or unique coastal resources.</p>

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No.	PURPOSE	CODE SECTION	AMENDMENT DESCRIPTION
22	Regulatory Reform	131.0622 141.0407	<p><u>Educational Facilities: K-12, Colleges/Universities, Vocational/Trade Schools</u> The code currently does not define vocational/trade schools or colleges/universities. Amendments are proposed to better classify and address the potential land use impacts of these uses. Colleges/universities and vocational/trade schools would not be allowed in prime industrial lands unless the primary emphasis of the school is instruction of adults in subjects incidental to manufacturing and industrial uses. Amendments would allow private colleges and universities that provide training and education in a traditional office building without any extracurricular facilities of a traditional post secondary educational facility to be permitted by right in zones where business and professional office is permitted, except would be limited in prime industrial lands as described above.</p>
23	Compliance with law	141.0601	<p><u>Adult Entertainment Business License Transfers</u> The existing “transfer of ownership” section is not legally enforceable per the City Attorney’s office because zoning regulations can’t prohibit the transfer of rights to a previously conforming use with the transfer of the land. The use runs with the land irrespective of a change in ownership. The amendment is necessary to address the conflict in Section 141.0601(b)(1) and (b)(2) per City Attorney direction.</p>
24	Clarification	141.0620	<p><u>Recycling Businesses</u> Amendments would clarify in Section 141.0620(d)(6) that small collection facilities that are not fully enclosed must be located at least 10 feet from any building and from any public right-of-way.</p>
25	Regulatory Reform	142.0412	<p><u>Brush Management</u> Address inconsistencies related to authority of the Fire Chief to grant alternative compliance for brush management. Existing code language is unintentionally limiting the Fire Chiefs authority to grant modifications to the standard brush management requirements through alternative compliance. Amendments will add necessary flexibility to account for Fire Department expertise.</p>

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No.	PURPOSE	CODE SECTION	AMENDMENT DESCRIPTION
26	Regulatory Reform	143.0212	<p><u>Historic Resources: Site Survey Exemption for Roof Replacement In Kind</u> Provide exemption from the requirement for the 45 year site specific survey for development that is limited to in kind roof repair/replacement for a non-designated structure as recommended during the regulatory reform workshop.</p>
27	Regulatory Reform	143.0220	<p><u>Historic Resources: Archaeological Resource Buffer</u> Provide for exemption from a discretionary permit in cases that will not result in substantial alteration, demolition, destruction, removal, relocation, or encroachment into archaeological resources during or after construction even if a 100 foot setback from archeological resources is not provided.</p>
<p>Measurement Amendments: The following clarify how various things are defined or measured in the Land Development Code.</p>			
28	Regulatory Reform/ Clarification	113.0237 New 129.0120	<p><u>Lot Tie Agreements</u> Clarify the method for determining a lot. Identify the process for recording a lot tie agreement in order to combine two or more parcels to maintain common ownership and control when compliance with zoning or building code regulations depends on treating the parcels as one. For example, lot tie agreements may be needed for fire protection of exterior walls, protection of building openings/egress, disabled access, foundation encroachment, parking, or other reasons determined by the Building Official.</p>
29	Clarification	131.0431 Table 131-04D	<p><u>Variable Setbacks</u> Clarify that footnote 2 to Table 131-04D; which relates to the 4 foot minimum, applies to lots greater than 50 feet only. Lots 50 feet and smaller are subject to the minimum setback in the table which is indicated as a percentage.</p>

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30	Regulatory Reform/ Clarification	131.0461	<p><u>Architectural Projections and Encroachments</u> Amendments would clarify in Section 131.0461(a)(12)(B) that encroaching accessory non habitable buildings shall be limited to a maximum structure height of 15 feet within the setback, and that any attached development above one story shall comply with the required setback. Amendments would also clarify that the reference to “architectural encroachments” in RM zones was intended to mean “architectural projections and encroachments”.</p>
31	Clarification	131.0543	<p><u>Setbacks for Commercial-Neighborhood Zones Abutting Residential</u> Clarify that the zero setback option can’t be used for neighborhood commercial development that abuts low density residential zoned properties (up to 15 dwelling units per acre).</p>
<p>Parking Amendments: The following would provide regulatory reform, clarification, and would address inconsistencies.</p>			
32	Regulatory Reform/ Clarification	126.0402 132.0902 132.0905 132.1002	<p><u>Residential Tandem Parking Overlay Zone/Transit Area Overlay Zone</u> Proposed amendments would help clarify the action previously taken on ordinance O-19288 that was adopted by the City Council on June 7, 2004 and certified by the Coastal Commission on March 17, 2005 thereby making the ordinance effective citywide. The concern is that the existing description in the code of the applicability of the Residential Tandem Parking and Transit Area overlay zones is unnecessarily complex and has caused confusion as to which maps apply. Amendments would also allow for use of tandem parking that is not otherwise provided for by right, to be requested via a Process Two Neighborhood Development Permit.</p>
33	Regulatory Reform/ Clarification	132.0801 132.0802 Diagram 132-08A	<p><u>Parking Impact Overlay Zone</u> The Parking Impact Overlay Zone is intended to regulate areas with high parking demand and apply supplemental regulations to beach impact and campus impact areas to require more off-street parking as applicable. However, the code currently identifies an additional “coastal impact area” (that appears to be coterminous with the coastal overlay zone boundary), which contains no supplemental development regulations or special permit requirements. Amendments clarify the overlay zone applies only to beach impact and campus impact areas as mapped on C-731 and C-795 filed in the Office of the City Clerk. Revise LDC Diagram 132-08A to indicate the coastal zone boundary as a reference point in place of the existing “coastal impact area” on the Diagram.</p>

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No.	PURPOSE	CODE SECTION	AMENDMENT DESCRIPTION
34	Regulatory Reform	142.0540(a)	<p><u>Modify Parking Exception for Commercial Uses on Small Lots</u> Modifies the existing parking exception for commercial uses on small lots (outside the beach impact area) to apply to commercial uses on lots 10,000 square feet or less. The existing regulation applies to <i>lots</i> that are 7,000 square feet or less that existed before January 1, 2000, including abutting <i>lots</i> under common ownership. In such cases, the applicant has the option to use parking requirements set forth in Table 142-05G as an alternative to the requirements set forth in Section 142.0530. (Table 142-05G allows 1 space per 10 feet of <i>alley</i> frontage, minus one space if site has alley access; otherwise no spaces required if site has no alley access).</p>
35	Regulatory Reform	142.0545	<p><u>Lower Process for Shared Parking based on Alternative Studies</u> Section 142.0545 allows for shared parking agreements through a Process One, but requires a Process Two Neighborhood Development Permit for uses not listed in the City’s parking demand tables. Amend Section 142.0545 to allow for Process One approval of shared parking using alternative parking demand rates that more accurately represent the parking demand and peak parking demand of a development consistent with the latest Urban Land Institute study or equivalent parking study to the satisfaction of the City Engineer.</p>
<p>Green Building Regulation Amendments: The following would address inconsistencies with the State’s adopted 2010 California Green Building Regulations (CalGreen).</p>			
36	Address Inconsistencies/ Comply with State Law	142.0402 142.0413	<p><u>Irrigation Controllers for Non-Residential Development</u> Amendments would incorporate the CalGreen requirement for water efficiency that requires all new commercial development that involves a landscape area of 1000-2500 square feet, including additions to existing commercial development, to install irrigation controllers that are weather or soil moisture based if potable water is being used for the irrigation.</p>

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37	Regulatory Reform/ Comply with State Law	142.0530 1410.0104 1410.0105 1410.0106	<p><u>Parking for Zero Emissions Vehicles, Carpools, and Bicycles</u> Amendments clarify how the CalGreen requirements for parking for fuel efficient vehicles and bicycles will be modified in accordance with state law for local implementation via the LDC. To avoid the potential for displacement of carpool vehicles and still meet the intent to reduce greenhouse gas emissions, the amendments would expand the LDC requirement for reserved carpool spaces to include certified zero emissions vehicles, but would not allow vehicles that are simply considered low emitting or fuel efficient to occupy those designated spaces per CalGreen since most contemporary vehicles could be argued to be low emitting and/or fuel efficient. Clarifies that the City will continue to require bicycle parking based on gross floor area for both short term (bicycle racks) and long term bicycle parking (lockers/showers) instead of adopting the CalGreen requirement, which is based on the addition of new automobile parking spaces.</p>
<p>Planned District Ordinance Amendments: The following would address inconsistencies and minor errors in the Planned District Ordinances.</p>			
38	Regulatory Reform/ Comply with State Law	Chapter 15, Article 19, Appendix A	<p><u>Southeastern San Diego PDO- Companion Units and Guest Quarters</u> The SESDPDO requires a discretionary “Special Permit” in SF zones for companion units and guest quarters. These use categories should be changed to “limited” to allow for Process One approval of complying companion unit and guest quarters/habitable structures consistent with state law (Government Code Section 65852.2) and citywide regulations.</p>
<p>Minor Corrections: The following 17 items would fix typos, formatting errors, and incorrect terms/section references.</p>			
39	Address Incorrect References	111.0101 121.0202 121.0308	<p><u>References to the Chapter 14 Building, Electrical, Plumbing, Mechanical, Residential Building, and Green Building Regulations</u> Sections 111.0101, 121.0202, and 121.0308 currently refer to the Chapter 14 Building, Electrical, Plumbing, and Mechanical Regulations. As a result of previous Council action taken to adopt the 2010 state building standards and codes, the reference should be expanded to include Article 8 Mechanical Regulations, Article 9 Residential Building Regulations, and Article 10 Green Building Regulations, which are collectively referred to as the Building, Electrical, Plumbing, Mechanical, Residential Building, and Green Building Regulations.</p>

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No.	PURPOSE	CODE SECTION	AMENDMENT DESCRIPTION
40	Address Incorrect Reference	113.0103	<p><u>Definition of Business Day</u> A business day is defined in Section 113.0103 as any day except a Saturday, Sunday, or holiday listed in Municipal Code Section 21.04, unless otherwise listed. Section 21.04 was renumbered in 2000 to 21.0104. Correct to reflect the amended section reference.</p>
41	Address Incorrect Reference	113.0103 153.0101 158.0101 159.0101 1510.0101 1512.0101 1515.0101 1516.0101 1519.0302 1519.0303	<p><u>Definition of Land Use Plan</u> The existing LDC definition of Land Use Plan refers to the Progress Guide and General Plan. The reference should be updated refer to the General Plan, which was updated in 2008. Outdated references to the old Progress Guide and General Plan can be found in the definitions section of the Land Development Code, the Carmel Valley Planned District Ordinance, Golden Hill Planned District Ordinance, La Jolla Planned District Ordinance, La Jolla Shores Planned District Ordinance, Mid-City Planned District Ordinance, Mount Hope Planned District Ordinance, Old Town Planned District Ordinance, and Southeastern San Diego Planned District Ordinance.</p>
42	Address Incorrect Reference	113.0103	<p><u>Definition of Parking Structure</u> The definition of <i>parking structure, underground</i> states see <i>underground parking structure</i>. This is a leftover code reference from when the term “underground parking structure” was previously a defined term in Chapter 11 of the LDC.</p>
43	Address Incorrect Reference	113.0202 Table 113-02A	<p><u>Existing Grade</u> Amend Table 113-02A to identify Section 113.0228 as the correct reference for the rules for measurement of “existing grade”. Remove the reference to “proposed grade”, which is a defined term in 113.0103, but has no applicable section in the rules for calculation and measurement.</p>
44	Address Incorrect Term	113.0270	<p><u>Fence and Wall Height</u> Correct the grammar used in Section 113.0270(b)(1)(A) regarding calculation of fence and wall height . “No <u>The</u> height of any portion of a <i>fence</i> or wall is measured from...”</p>
45	Address Incorrect Reference	123.0103	<p><u>Commencement of a Zoning or Rezoning Action</u> The reference to Section 123.0104 should be changed to 123.0105. Section 123.0104 does not exist.</p>

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46	Address Incorrect Term	126.0504	<u>Site Development Permit Findings for Historical Resources</u> The amendment would fix a typo in the heading for the required finding that a decision maker must make for any deviation requests for development with historical resources that involve substantial alteration.
47	Address Incorrect Reference	Ch 13 use tables 131.0622	<u>Comprehensive Sign Plans</u> Replace old term “reallocation of sign area” with updated term “comprehensive sign program” in all of the Chapter 13 use tables pursuant to the code change adopted with the 7 th Update.
48	Address Incorrect Reference	131.0431 Tables 131-04C and 131-04D	<u>Resubdivided Corner Lots</u> Under Tables 131-04C and 131-04D, the reference to Section 131.0443(i) should be changed to Section 113.0246(f) for information on how to measure the setbacks for resubdivided corner lots.
49	Address Incorrect Reference	131.0631 Table 131-06C	<u>Street Wall Requirements in Industrial Zones</u> In Table 131-06C, the reference to Section 131.0660 should be changed to Section 142.1030.
50	Address Incorrect References	132.1402 Table 132-14A Diagram 132-14B	<u>College Area Community Plan Implementation Overlay Zone (CPIOZ)</u> The College Area CPIOZ was repealed and replaced with redevelopment plan policies when the San Diego State University Redevelopment Plan was adopted by Ordinance O-18004 in 1993. The accompanying community plan amendment replaced all College Area CPIOZ policies with redevelopment plan policies and effectively removed all references to CPIOZ from the community plan. The issue is that map records still mistakenly show portions of the old overlay zoning on two remnant parcels. The amendment will correct the map and delete incorrect references to College Area CPIOZ in LDC Section 132.1402.
51	Address Incorrect References	141.0604	<u>Boarding Kennels</u> Under subsection (b)(5), the reference to Section 146.0604 should be changed to 141.0604.
52	Address Incorrect Term	141.0619	<u>Pushcarts</u> The word “notarized” is misspelled as “notorized” under Section 141.0619(b)(4).

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53	Address Incorrect References	141.0625	<p><u>Veterinary Clinics</u> Under subsection (b)(4), the reference to Section 146.0625(a) should be changed to 141.0625(b).</p>
54	Address Incorrect Term	142.1205	<p><u>When Sign Regulations Apply</u> Fix typographical error to clarify that clocks or banners in the public right-of-way require a “<u>Public Right-of-Way Permit</u>”.</p>
55	Address Incorrect Reference	142.1290	<p><u>La Jolla Sign Control District Abatement and Severability Subsections</u> The amendments clarify that the regulatory language related to abatement and severability is related to signs in the La Jolla sign control district as a whole (not just to one subdistrict).</p>