DRAFT: 9th Update Code Language—Process and Use Changes

PROCESS AMENDMENTS:

ISSUE #1: Process for Grading and Right-of-Way Improvement Permits

$62.1205 Duration of a Public Right-of-Way Permit to Excavate Within a Public Street

It shall be unlawful for any person or public utility to excavate within the roadway section of a street in the public right-of-way without a valid Public Right-of-Way Permit under issued in accordance with Section 129.0702 129.0741. Notwithstanding Chapter 12, Article 9, Division 7, Section 129.0743 and Section 129.0744, a Public Right-of-Way Permit to excavate within the roadway section of a public street shall be void if the excavation has not begun within ninety calendar days of the start date specified in the permit, if the excavation is not pursued diligently to its conclusion, or if the excavation and restoration has not been completed within one calendar year from the permit issuance.

$129.0642 Initial Utilization of a Grading Permit

A Grading Permit shall become void if the work authorized by the permit had not begun within 180 calendar days of the date of permit issuance.

$129.0643 Maintaining Utilization of Grading Permit

A Grading Permit shall become void if, at any time after the work has begun, the grading or other work authorized by the Grading Permit is suspended or abandoned for a continuous period of 180 calendar days, unless the Grading Permit is associated with a valid Building Permit.

$129.0743 Initial Utilization of a Public Right-of-Way Permit

A Public Right-of-Way Permit shall become void if the work authorized by the permit has not begun within 180 calendar days of the date of permit issuance.

$129.0744 Maintaining Utilization of a Public Right-of-Way Permit

A Public Right-of-Way Permit shall become void if, at any time after the work has begun, the work authorized by the permit is suspended or abandoned for a period of 180 calendar days, unless the Public Right-of-Way Permit is associated with a valid Building Permit.

ISSUE #2: Expiration of Application

$112.0102 Application Process

An application for a permit, map, or other matter shall be filed with the City Manager in accordance with the following requirements:
(a) through (c) [No change.]

(d) Expiration of Application.

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

(3) The expiration period for an application related to a premises for which a civil penalty notice and order establishes a future date for corrective action of a code violation shall be automatically extended an additional 180 calendar days from the date set in the civil penalty notice and order. If the date set forth for corrective action in the civil penalty notice & order is less than 2 years from the date the permit or map application is deemed complete, then the existing application may be extended in accordance with Section 112.0102(d)(2).

(3)(4)(c) Once expired, the application, plans, and other data submitted for review may be returned to the applicant or destroyed by the City Manager.

(4)(5)(c) To reapply, the applicant shall submit a new application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.

**ISSUE #3: Process to Approve Water Supply Assessments**

§112.0103 Consolidation of Processing

(a) When an applicant applies for more than one permit, map, or other approval for a single development, the applications shall be consolidated for processing and shall be reviewed by a single decision maker, except as otherwise provided by Section 112.0103(b) and (c).

(1) The decision maker shall act on the consolidated application at the highest level of authority for that development as set forth in Section 111.0105.

(2) The findings required for approval of each permit shall be considered individually, consistent with Section 126.0105.

(3) Where the consolidation of processing combines Process Two, Process Three, Process Four, or Process Five with Process CIP-Two or Process CIP-Five, the consolidation shall be made as follows:

(a)(A) Consolidation of Process Two and Process CIP-Two shall be consolidated into Process CIP-Two.

(b)(B) Consolidation of Process Three, Process Four, or Process Five with Process CIP-Five shall be consolidated into Process CIP-Five, except that any consolidation with a Process Five for rezoning shall be consolidated into Process Five.
(b) When the California Environmental Quality Act and California Water Code require that the City prepare a Water Supply Assessment (WSA), the WSA shall be considered for approval by the City Council. The associated development permit applications are not required to be consolidated with City Council approval of the WSA as further described below:

1. Action by a lower decision maker to approve a project in accordance with Process Two, Three, or Four shall occur after City Council approval of the WSA.

2. City Council action to approve a project with a WSA shall occur after approval of the WSA. The City Council’s adoption or certification of an environmental document that incorporates a WSA shall constitute approval of the WSA.

(c) [See Issue #4.]

ISSUE #4: Consolidation of Processing in Relation to Code Violations

§112.0103 Consolidation of Processing

(a) through (b) [See Issue #3 for proposed changes.]

(c) An application for an approval required to comply with a civil penalty notice and order related to a code violation is not required to be consolidated for processing with any other application.

ISSUE #5: Published Notice Requirement for Ad Hoc Fees

§112.0301 Types of Notice

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

(c) Notice of Public Hearing. A Notice of Public Hearing shall be provided before a decision is made on an application for a permit, map, or other matter acted upon in accordance with Process Three, Process Four, Process Five, or Process CIP-Five, or an appeal of a Process Two, Process CIP-Two, Process Three, or Process Four decision, or of an environmental determination. A Notice of Public Hearing shall also be provided before a decision is made by the City Council in accordance with Section 132.1555 (Overrule Process).

1. through 2. [No change.]

3. Distribution. Except as otherwise provided by the Municipal Code, the City Manager shall publish the Notice of Public Hearing in accordance with Section 112.0303, and shall mail the Notice of Public Hearing to the persons described in Section 112.0302(b), at least 10 business days before the date of the public hearing.

(d) through (e) [No change.]
§112.0303 Published Notice

(a) When the Land Development Code requires a Notice of Public Hearing to be published, the City shall submit the Notice of Public Hearing for publication in at least one newspaper of general daily circulation within the City, except as identified in Section 112.0303(b) where special published notice is required in accordance with state law. A published notice is effective on the date of publication.

(b) The imposition of ad hoc fees pursuant to the Mitigation Fee Act (Cal. Gov’t Code section 66000-66025) is subject to the published notice requirements of Cal. Gov’t Code section 6062a.

ISSUE #6: Clarification Regarding Claims of Failure to Receive Notice

§112.0309 Failure to Receive Notice

The failure of any person to receive notice given in accordance with this division and the State of California Planning and Zoning Laws shall not constitute grounds for any court to invalidate any action taken by the City for which the notice was provided. Furthermore, the action shall not be held invalid for noticing errors in the absence of a court’s final determination of invalidity on that basis under the standard set forth in Cal Gov’t Code section 65010(b) that the error was prejudicial, caused substantial injury, and a different result would have been probable if the error had not occurred.

ISSUE #7: Appeal Period for EOT Applications for Map Waivers and Tentative Maps

§112.0504 Process Two Appeal Hearing

(a) The Planning Commission shall hear appeals of Process Two decisions subject to the following requirements, unless otherwise specified in the Land Development Code.

(1) [No change.]

(2) Request for a Process Two Appeal Hearing.

(A) A Process Two decision may be appealed by filing an application for a Process Two appeal hearing with the City Manager no later than 12 business days after the decision date; and

(B) If an applicant appeals the denial of an Extension of Time for a map waiver or tentative map in accordance with Sections 125.0124 and 125.0461, the decision may be appealed no later than 15 calendar days after the decision date in accordance with Subdivision Map Act section 66452.6(e). Pursuant to Subdivision Map Act section 66452.6(e), an
applicant may file an appeal within 15 calendar days of a decision to deny their application for an Extension of Time for a map waiver or tentative map. In such cases, the maximum time period for filing an appeal is 12 business days or 15 calendar days after the decision date, whichever is greater.

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

(b) [No change.]

ISSUE #8: Process to Modify Conditions of Approval of a Recorded Map

§125.0141 Decision Process for Correction and Amendment of Maps

A decision on an application to correct or amend a recorded map shall be made in accordance with the following:

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

(c) Modified Conditions: If the proposed amendments modify or eliminate conditions of approval of the recorded map or do not substantially conform with the approved tentative map, the City Council shall make the decision on the application for the amended map in accordance with Process Five shall be acted upon in accordance with the process that would apply to the same map as a new application.

ISSUE #9: Extension of Time Applications for Development Permits

§125.0461 Extension of Time for a Tentative Map

The expiration date of a tentative map may be extended as follows:

(a) The expiration date of a tentative map may be extended one or more times if the extensions do not exceed a total of 72 months in accordance with the Subdivision Map Act. This time frame does not include any legislative extensions enacted pursuant to state law.

(1) Request for Extension. An application for Extension of Time for a tentative map shall be filed before the expiration date of the tentative map but not more than 60 calendar days 12 months before the expiration date, in accordance with Section 112.0102. When an application for Extension of Time is filed, the tentative map shall be automatically extended for a period of 60 calendar days from the expiration date or until the Extension of Time is approved, conditionally approved, or denied, whichever occurs first.

(2) through (4) [No change.]
§126.0111 Extension of Time of a Development Permit

(a) Expiration Date. The expiration date of an approved development permit may be extended one or more times, provided the development permit approval and subsequent permit extensions do not exceed a total of 36 months beyond the expiration of the initial utilization period. The initial development permit approval date with the following exceptions:

(1) This time frame does not include any legislative extensions enacted pursuant to state law, or any development permit time extensions granted by the City Council by ordinance that extend the expiration of a development permit beyond the maximum 72 month permit expiration period.

(2) When a development permit is associated with a tentative map, any map extensions granted pursuant to state law shall automatically extend the expiration of associated development permits to coincide with the expiration of the tentative map. This extension of time shall not be subject to the 36 month restriction.

(b) Request for Extension. Before the expiration of an approved development permit, but not more than 60 calendar days before the expiration date, an applicant may file an application for an extension of time to a development permit in accordance with Section 112.0102. If an application for extension of time is timely filed, the development permit shall be automatically extended for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs last.

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

(j) If the extension of time is granted, the time period for the extension of time shall begin from the date of expiration of the previously approved development permit.

ISSUE #10: Process for Easement Vacations

§125.1030 Decision Process for an Easement Vacation

(a) A decision on an application to vacate a public service easement requested in accordance with Section 125.1010(b) or to vacate any other type of easement requested in accordance with Section 125.1010(c) shall be made by the City Council in accordance with Process Five, except that a recommendation by the Planning Commission is not required. The requirement for a Planning Commission recommendation hearing shall also be waived for any associated coastal development permit that is required solely for the easement vacation.

(b) [No change.]
ISSUE #11: Utilization of a Development Permit

§126.0108 Initial Utilization of a Development Permit

(a) A development permit grants the applicant 36 months to initiate utilization of the permit. If none of the actions listed in Section 126.0108(b) has occurred within 36 months after the date on which all rights of appeal have expired, and an application for extension of time was not timely filed, the development permit shall be void.

(b) To demonstrate utilization, the permit holder shall establish with evidence identified in Section 126.0108(c) that at least one of the following circumstances occurred before expiration of the development permit:

(1) Significant investment was incurred to meet permit conditions;

(2) Substantial work was performed in reliance of the permit granted; or

(3) Use of the property has occurred in the manner granted by the permit.

(c) A development permit may be utilized by the following methods: Upon request, the permit holder shall provide evidence of the following to the satisfaction of the City Manager to demonstrate utilization in accordance with Section 126.0108(b):

(1) Issuance of a construction permit for the entire project or for a substantial portion of the activity regulated by the development permit, as determined by standards developed by the City Manager;

(2) Compliance with the terms contained in the individual permit, such as a phasing program, or the terms contained in an approved Development Agreement;

(3) Evidence of substantial use in progress in the manner granted by the development permit, according to standards as developed by the City Manager;

(4) Approval of a final map or a parcel map, or acceptance of an easement, if the map or easement was a condition of, or was processed concurrently with, the development permit; or

(5) Other facts demonstrating occurrence of one of the circumstances described in Section 126.0108(b).

§126.0109 — Maintaining Utilization of a Development Permit

(a) If issuance of a construction permit in accordance with Section 126.0108 is the method used for initial utilization of the development permit, the construction permit shall be kept active until completion of the final inspection or issuance of the certificate of occupancy to maintain utilization of the development permit.
(b) If the construction permit is allowed to expire before completion of the project, the initial utilization of the development permit gained by that construction permit shall become void.

(c) A development permit that is voided in accordance with 126.0109(b) may be reactivated by obtaining a new construction permit either during the original 36-month timetable for that development permit, or during the timeline as may have been extended in accordance with Section 126.0111.

**ISSUE #12: Cancellation or Rescission of a Development Permit**

§126.0110 Cancellation or Rescission of a Development Permit

(a) An owner or permittee may request cancellation of a development permit at any time before initial utilization of the permit. The owner or permittee shall submit the request for cancellation in writing to the City Manager. The City shall may forward a written declaration of the cancellation to the County Recorder for recordation in accordance with Section 126.0106 or may require the owner or permittee to do so. The development permit shall be void on the date that the declaration of cancellation is recorded with the County Recorder. The City shall mail a copy of the declaration of cancellation to the owner and permittee.

(b) Once a development permit has been utilized, an owner or permittee may submit an application to rescind the development permit in accordance with the following:

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

(3) The City may forward a written declaration of the rescission to the County Recorder for recordation in accordance with Section 126.0106 or may require the owner or permittee to do so.

**ISSUE #13: Ability to Use New Regulations Without Amending a Development Permit**

§126.0112 Minor Modifications to a Development Permit

(a) A proposed minor modification to an approved development permit may be submitted to the City Manager to determine if the revision is in substantial conformance with the approved permit.

(b) If the revision is determined to be in substantial conformance with the approved permit, the revision shall not require an amendment to the development permit.

(c) Where a development permit requires compliance with a regulation applicable to the development as of the date of the development permit approval, but that regulation is subsequently amended, the permit holder may utilize the amended regulation without obtaining an amendment to its development permit if it obtains a Process Two
Neighborhood Development Permit or can otherwise demonstrate to the satisfaction of the City Manager that the resulting development is in substantial conformance with the approved permit.

(d) Within the Coastal Overlay Zone, any substantial conformance determination shall be reached through a Process Two review, except that a substantial conformance determination for a capital improvement program project shall be reached through a Process CIP-Two review.

ISSUE #14: Flexibility for Modifications to Industrial Development

§126.0113 Amendments to a Development Permit

(a) A proposed revision to an approved development permit that would significantly reduce the scope of the development or is not in substantial conformance with the approved permit requires an amendment to the approved permit or an application for a new permit, except as follows:

(1) Industrial development in an IP, IL, or IH zone may request a Process Two Neighborhood Development Permit to modify approved development permit requirements instead of being required to amend the applicable development permit via a higher decision process.

(2) The exception in Section 126.0113(a)(1) does not apply to industrial development within 1,000 feet of a residential zone.

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

(f) [See Issue #39]

ISSUE #15: Encroachments

§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 or other discretionary approval 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 in accordance with Process One by the City Engineer:

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

(d) A Neighborhood Development Permit in accordance with Process Two shall be required for pedestrian plaza encroachments in the public right-of-way beyond the ultimate curb line.

§129.0715 Encroachment Maintenance and Removal Agreement

(a) An Encroachment Maintenance and Removal Agreement is required for any privately owned or privately maintained facilities or structures located in the public right-of-way or in a public service easement constructed and maintained by the property owner subject to the following:

(1) The encroachment shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner permit holder and successors in interest and shall not adversely affect the public’s health, safety or general welfare.

(2) The property owner permit holder shall agree to indemnify the City with an indemnification agreement satisfactory to the City Manager and City Attorney.

(3) The property owner permit holder must agree to remove or relocate the encroachment within 30 days after notice by the City Engineer or the City Engineer may cause such work to be done, and the costs thereof shall be a lien upon said land, or the property owner permit holder agrees to an equivalent to the requirement for removal as determined by the City Engineer.

(4) For structures encroaching over or under the public right-of-way, the property owner permit holder agrees to provide an alternate public right-of-way or to relocate any existing or proposed City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Engineer that any existing or proposed City facility cannot be economically placed, replaced, or maintained due to the presence of the encroaching structure.

(5) [No change in text.]

(6) Except as provided in Section 129.0715(a)(7), the property owner permit holder shall maintain a policy of $1 million liability insurance, satisfactory to the City Engineer, to protect the City from any potential claims which may arise from the encroachment.

(7) The property owner of an encroachment serving a single dwelling unit for encroachments serving a single dwelling unit, the permit holder shall maintain a policy of $500,000 liability insurance, for encroachments serving a single
dwelling unit is satisfactory to the City Engineer to protect the City from any potential claims which may arise from the encroachments.

(8) In the event the City is required to place, replace, or maintain a public improvement over which the property owner permit holder has constructed an encroaching structure, the property owner permit holder shall pay the City that portion of the cost of placement, replacement, or maintenance caused by the construction, or existence of the owner’s permanent encroaching structure.

(9) The property owner permit holder shall pay the City for all the cost of placing, replacing, or maintaining a public improvement within a public right-of-way when the City’s facility has failed as a result of the construction or existence of the owner’s encroaching structure.

(10) [No change in text.]

(11) The property owner permit holder shall pay the City or public utility for all costs of relocating, replacing, or protecting a facility within the public right-of-way or public service easement when such relocation, replacement, or protection results from the construction of the encroachment.

(42)(b) Encroachment Maintenance and Removal Agreements for approved encroachments shall may be recorded in the office of the County Recorder.

ISSUE #16: Previously Conforming Regulations

§127.0102 General Rules for Previously Conforming Premises and Uses

The following general rules apply to all previously conforming premises and uses:

(a) Previously conforming premises or uses must have been established in compliance with all permit requirements and must have been lawful until a change in the applicable zoning regulations made the premises or uses previously conforming.

(b) The property owner or person asserting previously conforming rights for a premises or use has the burden to provide the City Manager with sufficient documentation to establish the existence of the previously conforming premises or use.

(c) Documentation of market value shall be in accordance with procedures established by the City Manager.

(d) Previously conforming premises and uses that comply with the provisions of this division may continue to exist and operate unless an amortization period is specified elsewhere in the Municipal Code.
(e) Sale or transfer of the property or change of ownership does not terminate rights to the *previously conforming premises* or use, unless the owner agrees to such a condition as part of a permit or administrative or judicial order.

(f) *Previously conforming premises* and uses are subject to all other regulations and any *development permits* that may otherwise be required by the Land Development Code. The required review process shown in Tables 127-01A and 127-01B, and described in Sections 127.0103 through 127.0108, pertains only to the review required for the *previously conforming premises* or use aspects of a proposed *development*. Proposed development sites located in the Coastal Overlay Zone or other geographic overlay zones are also subject to the regulations of, and may require *development permit* review in accordance with, those overlay zones.

The *previously conforming* regulations do not grant any deviation from the height regulations of the Coastal Height Limit Overlay Zone or any other height limit overlay zone.

(g) If a *previously conforming premises* or use is brought into conformance by a change in use or new *development*, the *previously conforming* status is terminated and the *premises* or use cannot revert to a *previously conforming* status. A temporary discontinuance of operations in accordance with Section 127.0108(d) shall not be considered to have brought the *previously conforming* use into conformance or to have terminated the *previously conforming* status. See Section 127.0108 for additional regulations regarding abandonment of *previously conforming* uses.

(h) Regulations for *premises* that have *previously conforming* parking are found in Section 142.0510(d).

(i) Regulations for *premises* that have *previously conforming* landscaping are found in Section 142.0410.

(j) Regulations for *premises* in the Airport Land Use Compatibility Overlay Zone that were legally established in an airport influence area prior to adoption of an Airport Land Use Compatibility Plan, or amendment thereto, are located in Section 132.1535.

§127.0103 **Review Process for Previously Conforming Premises and Previously Conforming Uses**

The required review process for different types of proposed *development* or activity varies based on the *previously conforming* category aspects of the *development*, such as existing structural envelope, density, and uses are as shown in Tables 127-01A through 127-01B.
and 127-01CB. If the proposed development includes more than one previously conforming category, all corresponding regulations, as described in Sections 127.0104 through 127.0109 apply.

### Table 127-01A
Review Process for Previously Conforming Structural Envelope

<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Applicable Sections</th>
<th>Required Development Permit/Decision Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance, repair or alteration (less than or equal to 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Maintenance, repair or alteration (greater than 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy) for residential structures or for nonresidential structures when the cost of reconstruction is less than 50 percent of market value.</td>
<td>127.0105(a), (b) and (e)</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy) for nonresidential structures when the cost of reconstruction is greater than 50 percent of market value.</td>
<td>127.0105(c) and (d)</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Expansion/enlargement, where new construction conforms with all current development regulations.</td>
<td>127.0106(a), (b) and (e).</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Expansion/enlargement where new construction requests a reduction of up to 20% from required setbacks.</td>
<td>127.0106(c).</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Maintenance, repair, alteration, or replacement of a <em>structure</em> with <em>previously conforming structural envelope</em></td>
<td>127.0104</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Maintenance, repair, alteration, or replacement that is outside the coastal zone or that is exempt from a Coastal Development Permit in accordance with Section 126.0704(b)</td>
<td>126.0704 127.0104</td>
<td>NDP/Process Two</td>
</tr>
<tr>
<td>Maintenance, repair, alteration, or replacement that requires a Coastal Development Permit (because it does not meet the permit exemptions in Section 126.0704(b))</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Reconstruction (following fire, natural disaster, act of the public enemy) of a *structure* with *previously conforming structural envelope***

<table>
<thead>
<tr>
<th>Reconstruction in accordance with Section 127.0105(b)</th>
<th>127.0105</th>
<th>CP/Process One</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reconstruction that does not meet criteria for Process One approval</td>
<td>127.0105</td>
<td>NDP/Process Two</td>
</tr>
</tbody>
</table>

**Expansion/enlargement of a *structure* with *previously conforming structural envelope*, or of a *structure* on a premises with *previously conforming density***

<table>
<thead>
<tr>
<th>Where proposed expansion/enlargement conforms with current development regulations for setbacks, <em>floor area ratio</em>, and <em>structure height</em> and does not increase the level of non-conformity</th>
<th>127.0106</th>
<th>CP/Process One</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expansion or enlargement of a <em>previously conforming multiple dwelling unit</em> or non-residential <em>structure</em> as necessary to incorporate required public exits or fire walls that bring the existing <em>structure</em> into compliance with the California Building Code or California Fire Code</td>
<td>127.0106</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>Expansion or enlargement of a <em>previously conforming structure</em> in accordance with Section 127.0106(b)</td>
<td>127.0106</td>
<td>NDP/Process Two</td>
</tr>
</tbody>
</table>

(b) *Previously Conforming Density*

**Table 127-01B**

*Review Process for Previously Conforming Density*
<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Applicable Sections</th>
<th>Required Development Permit/Decision Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance, repair or alteration (less than or equal to 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104.</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Maintenance, repair or alteration (greater than 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104.</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy) for residential structures or for nonresidential structures when the cost of reconstruction is less than 50 percent of market value.</td>
<td>127.0105(a), (b) and (c)</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy) for nonresidential structures when the cost of reconstruction is greater than 50 percent of market value.</td>
<td>127.0105(c) and (d)</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Expansion/enlargement, where new construction conforms with all current development regulations.</td>
<td>127.0106(a) and (b).</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Expansion/enlargement where new construction requests a reduction of up to 20% from required setbacks.</td>
<td>127.0106(c).</td>
<td>NDP/Process 2</td>
</tr>
</tbody>
</table>

**Previously Conforming Use**

Table 127-01C

<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Applicable Sections</th>
<th>Required Development Permit/Decision Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance, repair or alteration (less than or equal to 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104.</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Maintenance, repair or alteration (greater than 50% of market value of entire structure or improvement) that does not expand the structural envelope.</td>
<td>127.0104</td>
<td>NDP/Process 2</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy)</td>
<td>127.0105</td>
<td>CP/Process 1(1)</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy)</td>
<td></td>
<td>NDP/Process 2(2)</td>
</tr>
<tr>
<td>Expansion/enlargement, where new construction conforms with all current development regulations.</td>
<td>127.0106(a) and (b)</td>
<td>NDP/Process 2(3)</td>
</tr>
<tr>
<td>Expansion/enlargement where new construction requests a reduction of up to 20% from required setbacks.</td>
<td>127.0106(c)</td>
<td>NDP/Process 2(3)</td>
</tr>
<tr>
<td>Change to another previously conforming use within the same use category.</td>
<td>127.0107</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Operating a previously conforming use, including resumption of previously conforming use up to 2 years after discontinuance.</td>
<td>127.0108(a) and (c)</td>
<td>CP/Process 1</td>
</tr>
<tr>
<td>Resumption of a previously conforming use after 2 years discontinuance.</td>
<td>127.0108(b) and (c)</td>
<td>NUP/Process 2</td>
</tr>
<tr>
<td>Increase in floor area to a previously conforming use (less than or equal to 20% of gross floor area of the existing structure).</td>
<td>127.0109</td>
<td>NUP/Process 2(3)</td>
</tr>
</tbody>
</table>

Table 127-01B
Review Process for Previously Conforming Use

<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Applicable Sections</th>
<th>Required Development Permit/Decision Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance, repair or alteration of a structure containing a previously conforming use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Removal of less than 50 percent of the exterior walls of a structure containing a previously conforming use</td>
<td>127.0104</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>Removal of 50 percent or more of the exterior walls of a structure containing a previously conforming use</td>
<td>127.0104</td>
<td>NDP/Process Two</td>
</tr>
<tr>
<td>Reconstruction (following fire, natural disaster, act of the public enemy) of a structure</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


### Table 127-01C:

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associated with a <em>previously conforming</em> use and resumption of the use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reconstruction that meets specified criteria in Section 127.0105(b)</td>
<td>127.0105</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>Reconstruction that does not meet criteria for Process One approval</td>
<td>127.0105</td>
<td>NDP/Process Two</td>
</tr>
<tr>
<td><strong>Expansion/enlargement of a <em>previously conforming</em> use</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase in floor area to a <em>previously conforming</em> use (up to 20 percent expansion of gross floor area of the existing structure or up to the maximum floor area ratio of the underlying base zone, whichever is less)</td>
<td>127.0109</td>
<td>NUP/Process Two</td>
</tr>
<tr>
<td><strong>Operation changes involving <em>previously conforming</em> uses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change to another <em>previously conforming</em> use within the same use category</td>
<td>127.0107</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>Operating a <em>previously conforming</em> use, including resumption of <em>previously conforming</em> use up to 2 years after discontinuance</td>
<td>127.0108</td>
<td>CP/Process One</td>
</tr>
<tr>
<td>Resumption of a <em>previously conforming</em> use after 2 years discontinuance</td>
<td>127.0108</td>
<td>NUP/Process Two</td>
</tr>
</tbody>
</table>

### Footnotes to Table 127-01C:

- Applies to reconstruction of *previously conforming* structures, with *previously conforming density* or *previously conforming residential uses* with no limitation on cost. Applies to partial reconstruction of structures with *previously conforming* nonresidential uses (less than or equal to 50 percent of market value of entire structure or improvement).

- Applies to reconstruction of *previously conforming* nonresidential uses, when the cost of reconstruction is greater than 50 percent of market value.

- Findings of fact for this permit shall include the presumption that expansion of the following *previously conforming* uses would be detrimental to the public health, safety, and welfare: industrial uses in residential zones, auto repair or dismantling uses in residential zones and any use in a zone that would require a Conditional Use Permit in accordance with Section 126.0303.

### §127.0104 Maintenance, Repair, or Alteration or Replacement of Previously Conforming Structures
(a) Maintenance, repair, or alteration, or replacement of a previously conforming structure, with a previously conforming structural envelope is permitted in accordance with Process One, where the new construction would not expand beyond the existing structural envelope, is subject to the review procedures required for conforming structures except as described in Section 127.0104(b), unless the proposed development requires a Coastal Development Permit because it does not meet the permit exemptions in Section 126.0704(b).

(b) Maintenance, repair, or alteration, or replacement of a structure with a previously conforming structural envelope structure, containing previously conforming density or a previously conforming use, where the cost of the new construction would be greater than 50 percent of the market value of the existing structure, and the new construction would not expand beyond the existing structural envelope, requires a Neighborhood Development Permit, shall require a Neighborhood Development Permit in accordance with Process Two for proposed development that requires a Coastal Development Permit because it does not meet the permit exemptions in Section 126.0704(b).

(c) Maintenance, repair, alteration, or replacement of a dwelling unit, or multiple dwelling unit structure, that makes the premises previously conforming for density is permitted in accordance with Process One.

(d) Maintenance, repair, alteration, or replacement of a non-residential structure containing a previously conforming use is permitted in accordance with Process One if the proposed development would retain 50 percent or more of the exterior walls of the structure. If the proposed development would retain less than 50 percent of the exterior walls of the previously conforming structure, the proposed development shall require a Neighborhood Development Permit in accordance with Process Two. The calculation of exterior walls shall be measured in accordance with Section 127.0111.

(e) Maintenance, repair, alteration, or replacement must comply with Section 132.0505 in the Coastal Height Limit Overlay Zone and Section 132.0305 in the Clairemont Mesa Height Limit Overlay Zone.

(f) In the coastal overlay zone, previously conforming rights are not retained for a structure located within 50 feet of a coastal bluff edge if 50 percent or more of the previously conforming structure’s exterior walls are destroyed, demolished, or removed.

§127.0105 Reconstruction of Previously Conforming Structures Following Fire, Natural Disaster, or Act of the Public Enemy

(a) The reconstruction provisions of this section Section 127.0105 apply only to the rebuilding of a previously conforming structure that has been destroyed, in whole or in part, as a result of fire, natural disaster, or act of the public enemy, where
prior to the event that caused destruction, the *structure* met one or more of the following conditions:

1. The *structure* had a *previously conforming structural envelope*;
2. The *structure* was a *dwelling unit*, or a *structure* that included a *dwelling unit* or *dwelling units*, that made the premises *previously conforming for density*; or
3. The *structure* contained a *previously conforming use*.

(b) Reconstruction of any *previously conforming structure*, including a *structure with previously conforming density* or a *previously conforming residential use*, is subject to the same review procedures required for conforming *structures*. Reconstruction of a *previously conforming structure* described in Section 127.0105(a) is permitted in accordance with Process One as follows:

1. Reconstruction of a non-residential *structure* containing a *previously conforming use* where less than 50 percent of the *structure’s* exterior walls were destroyed; or
2. Reconstruction of a *structure* with a *previously conforming structural envelope* or *previously conforming density* where:
   
   A. The new *structure* would not exceed the *gross floor area* or *structure height* of the destroyed structure by more than 10 percent; and
   
   B. The new *structure* would be located in generally the same location as the destroyed *structure* or in a location that would reduce the level of non-conformity.

3. The calculation of exterior walls shall be measured in accordance with Section 127.0111.

(c) Partial reconstruction of a *structure containing a previously conforming nonresidential use* is subject to the review procedures required for conforming *structures*, if the cost of the reconstruction is less than or equal to 50 percent of the *market value* of the *structure* prior to destruction.

(d) Reconstruction of a *structure containing a previously conforming nonresidential use* requires a Neighborhood Development Permit if the cost of the reconstruction is greater than 50 percent of the *market value* of the *structure* prior to the
In accordance with Process Two where the proposed development does not meet the criteria for Process One approval in Section 127.0105(b).

(d) In the coastal overlay zone, previously conforming rights are not retained for a structure located within 50 feet of a coastal bluff edge if 50 percent or more of the previously conforming structure’s exterior walls are destroyed, demolished, or removed.

1. In such cases, reconstruction is subject to a Coastal Development Permit and the regulations applicable to conforming development.

2. The calculation of exterior walls for the purpose of previously conforming rights shall be measured in accordance with Section 127.0111.

(e) This section, or any Neighborhood Development Permit issued for reconstruction, Section 127.0105 does not exempt any person from any requirement to obtain other applicable development permits and does not grant any deviation from the height limit regulations of the Coastal Height Limit Overlay Zone or any other applicable height limit overlay zone. Reconstruction must comply with Section 132.0505 in the Coastal Height Limit Overlay Zone and Section 132.0305 in the Clairemont Mesa Height Limit Overlay Zone.

(f) All construction permits that would be required for conforming premises or uses must be obtained for reconstruction of previously conforming premises or uses pursuant to Section 127.0105.

§127.0106 Expansion or Enlargement of Previously Conforming Structures or of Structures On a Premises with Previously Conforming Density

(a) Proposed expansion or enlargement of a structure with a previously conforming structural envelope is subject to the procedural requirements for conforming structures if the existing density and use comply with all applicable development regulations of the Land Development Code and if the new construction will comply with all applicable development regulations, or of a structure on a premises with previously conforming density is permitted in accordance with Process One as follows:

1. Expansion or enlargement where all new construction conforms with current development regulations for setbacks, floor area ratio, and structure height and does not increase the level of non-conformity.

2. Expansion or enlargement of a previously conforming multiple dwelling unit or nonresidential structure is permitted as necessary to meet public
safety requirements of the California Building Code or California Fire Code for a conforming use as long as the need per the California Building Code or California Fire Code is not a situation created by the applicant due to the proposed expansion or enlargement.

(b) Proposed expansion or enlargement of a structure with a previously conforming structural envelope, where the existing previously conforming structure does not comply with applicable zoning regulations as to density or use requiring an expansion with previously conforming density, that does not meet the provisions for expansion in accordance with Section 127.0106(a), may nevertheless still be approved with a Neighborhood Development Permit, in accordance with Process Two if the proposed development within a setback meets all of the following criteria:

1. The proposed expansion or enlargement conforms to the setback observed by the existing structure;

2. The proposed expansion or enlargement complies with the floor area ratio and maximum structure height of the underlying base zone;

3. The proposed expansion or enlargement does not encroach into a front yard or extend outside of the developable area of the current zone to within 10 feet of the front yard setback line, unless the proposed expansion would reduce the level of non-conformity of existing development on a coastal bluff;

4. The proposed expansion or enlargement does not exceed a maximum 15 foot length in any required side or rear yard;

5. The proposed expansion or enlargement would not result in a total structure length within the required yard that is greater than 50 percent of the length of the adjacent property line;

6. The proposed expansion or enlargement would not result in any new habitable construction within 3 feet of the property line; and

7. The proposed expansion or enlargement is limited to additions at the first story level (as measured in accordance with Section 113.0261) and shall not exceed the height of the existing structure within the setback;

8. No expansion of the number of dwelling units is permitted beyond what is allowed in accordance with the underlying base zone.
(9) **No expansion is permitted within a required coastal bluff setback.**

(c) Proposed expansion or enlargement of a previously conforming structural envelope where the expansion would comply with regulations, but which proposes a reduction less than or equal to 20 percent from a required setback, requires a Neighborhood Development Permit.

(d)(c) Within the Coastal Overlay Zone, if the proposal involves the demolition or removal of 50 percent or more of the exterior walls of an existing structure, the previously conforming previously conforming rights are not retained for the new structure. The calculation of exterior walls shall be measured in accordance with Section 127.0111.

(d) Any expansion or enlargement proposed in accordance with Section 127.0106 must comply with Section 132.0505 in the Coastal Height Limit Overlay Zone and Section 132.0305 in the Clairemont Mesa Height Limit Overlay Zone.

(e)(e) Proposed expansion or enlargement or a change in use of a previously conforming large retail establishment is subject to a Process One Construction Permit and the applicable supplemental regulations in Section 143.0355(e) except as described below. Proposed expansion or enlargement or a change in use of a large retail establishment that would result in a structure 100,000 square feet or greater gross floor area and an increase in average daily trips is subject to a Site Development Permit in accordance with Section 126.0502.

§127.0108 Abandonment of Previously Conforming Uses

(a) A previously conforming use may continue to operate in accordance with Section 127.0102(c) or may resume operations if it is discontinued for a period of less than 2 consecutive years, operations may be resumed, or changed to another use in the same use category in accordance with Section 127.0107, except where otherwise indicated in Section 127.0108(c). Resumption of operations within 2 years is subject to the review procedures for conforming uses.

(b) It is unlawful to reinstate any previously conforming use after the use has been discontinued for a period of 2 or more consecutive years, unless the property owner has obtained a Neighborhood Use Permit. Discontinuance of the use for a period of 2 or more consecutive years creates a presumption in favor of abandonment, against which the owner or person asserting previously conforming rights may offer evidence to support resumption in accordance with one of the following:
(1) That the discontinuance occurred pursuant to an active construction permit in accordance with Section 127.0108(d); or

(2) A Neighborhood Use Permit was obtained in accordance with Process Two approving or conditionally approving resumption of the previously conforming use.

(c) Resumption of operations pursuant to Section 127.0108 (a) or (b) is prohibited in circumstances where a previously conforming use was brought into conformance by a change in use to a conforming use. In such cases, the previously conforming status is terminated and future development cannot revert to that previously conforming status. A previously conforming use can maintain previously conforming rights during construction in accordance with Section 127.0108(d) without being considered to have been abandoned.

(d) If the previously conforming use is discontinued temporarily while repairs, remodeling, or major alterations of the structure are under construction, maintenance of an active construction permit and continuance of the Business Tax Certificate constitutes conclusive evidence that the use has not been abandoned during the construction. A temporary discontinuance of operations in accordance with Section 127.0108(d) shall not be considered to have brought the previously conforming use into conformance or to have terminated the previously conforming status.

§127.0109 Expansion of a Previously Conforming Use

(a) A 20 percent or less gross floor area expansion of a structure with a previously conforming use requires a Neighborhood Use Permit in accordance with Process Two.

(b) When making the findings for a Neighborhood Use Permit for the proposed expansion of a previously conforming use, Where located in residential zones, the following uses are conclusively presumed to be detrimental to public health, safety, and welfare and shall not be eligible to expand:

(1) Industrial uses in residential zones, Hazardous waste facilities subject to Section 141.1001 or 141.1002;

(2) Very Heavy Industrial Uses subject to Section 141.1007;

(3) Wrecking and Dismantling of Motor Vehicles subject to Section 141.1008; and
(4) Commercial and personal vehicle repair and maintenance facilities that meet the use category description in Section 131.0112(a)(8)(A) or (C) in residential zones; and

(3) Any use that requires a Conditional Use Permit in the applicable zone in accordance with Section 126.0303.

§127.0110 Previously Conforming Density

(a) For the purpose of Chapter 12, Article 7, Division 1, previously conforming density shall be regulated in accordance with the same regulations and permit process applicable to previously conforming structural envelope. The regulations applicable to previously conforming uses shall not apply to multiple dwelling unit development in a single dwelling unit zone.

(b) The previously conforming regulations shall in no way be interpreted to allow for additional dwelling units to be added to a premises with previously conforming density.

§127.0111 Methodology for Measurement of Exterior Walls

(a) For the purpose of Chapter 12, Article 7, Division 1, the following shall apply to determine whether the threshold for removal of a structure’s exterior walls has been exceeded:

(1) An exterior wall shall be considered removed if the structural integrity of that wall is demolished or removed.

(2) The length of the exterior walls shall be measured in linear feet.

(b) The applicant shall provide sufficient information to demonstrate the extent of proposed wall removal, including but not limited to:

(1) A site plan of the existing structure with all existing exterior walls identified and dimensioned in linear feet;

(2) A demolition plan with dimensions specified in linear feet for any existing exterior walls that are proposed to be demolished or removed and replaced in accordance with Section 127.0111(a)(1); and

(3) Structural calculations and details regarding the proposal for all walls within the structure that would be modified.
ISSUE #17: CEQA Document Processing Requirements

§128.0209 When a Previous Environmental Document May Be Used

(a) A previously certified EIR or Negative Declaration, including any supplement or addendum, may be used when changes in the project or circumstances have occurred, unless the Planning Director determines that one or more of the situations identified in State CEQA Guidelines, Section 15162, exist.

(b) If a previously certified document is to be used, the Planning Director shall provide the decision-making body with an explanatory cover letter stating that none of the conditions specified in State CEQA Guidelines, Section 15162, exists.

(b)(c) An EIR prepared in connection with an earlier project may be used for a later project, if the circumstances of the projects are essentially the same and are consistent with the State CEQA Guidelines, Section 15153.

§128.0306 Required Time Periods for Public Review and Comment of Draft Environmental Documents

Other public agencies and members of the public shall have the following time periods to review and comment on draft environmental documents:

(a) The public review period for Negative Declarations, Mitigated Negative Declarations, and Environmental Impact Reports, and Addenda to environmental documents shall be consistent with that established by CEQA and the State CEQA Guidelines.

The public review period shall be consistent with that established by CEQA and the State CEQA Guidelines.

(b) Addenda

All addenda for environmental documents certified more than 3 years before the date of application shall be distributed for public review for 14 calendar days along with the previously certified environmental document. However, this review period for the addenda shall not extend the time for action beyond that required under law, and the failure to allow review of addenda, or allow sufficient time to review addenda, shall not invalidate any discretionary approval based upon an addendum under review.

§128.0310 Final Environmental Document Preparation, Distribution and Availability for Public Review

A final environmental document consisting of all information required by CEQA and the State CEQA Guidelines and any other information the Planning Director may add shall be prepared and distributed made available for review, as follows:
(a) Final Environmental Document Distribution and Availability

At least 14 calendar days before the first public hearing or discretionary action on the project, the Planning Director shall make all final environmental documents available on the City web page, including EIR Candidate Findings and Statements of Overriding Consideration if applicable, available to the public and decision makers and shall also mail copies of final environmental documents to the officially recognized community planning groups and members of the public who commented on the draft document. Final environmental documents will be available for review at least 14 calendar days prior to:

1. A decision made by the City Manager without a public hearing to adopt or certify an final environmental document, in accordance with the powers granted under City of San Diego Charter Section 28, including Process Two decisions;

2. A decision made by the Historic Resources Board or Planning Commission to make a recommendation on a project that requires action to adopt or certify an final environmental document; and

3. A decision made by the Hearing Officer, Planning Commission, or City Council to adopt or certify a final environmental document.

4. Failure to provide this 14-calendar-day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law.

(b) Final EIR Distribution to Public Agencies

The Planning Director shall provide a final EIR to any public agency that commented on the draft consistent with CEQA.

(b) (c) Comment on Final Environmental Document

The intent of the final review period in Section 128.0310(a) is to provide other public agencies, the public, and the decision makers the opportunity to review the final document before the first public hearing or discretionary action prior to a decision being made on the project. No comments will be solicited and no written responses to comments on final environmental documents shall be prepared.

§128.0312 Adoption of Candidate Findings and Statement of Overriding Considerations by the Decision Maker

Before approving a project for which the final EIR identifies one or more significant effects, the decision maker shall adopt the required findings in accordance with the State CEQA Guidelines, Section 15091. When the decision to approve the project allows the occurrence of significant
effects that are identified in the final EIR but are not at least substantially mitigated, the decision maker shall make a statement of overriding considerations stating the specific reasons to support the decision based on the final EIR and other information in the record in accordance with the State CEQA Guidelines, Section 15093.

(a) [No change.]

(b) Preparation of Adopted Candidate Findings and Statement of Overriding Considerations

The adopted candidate findings and the statement of overriding considerations shall be in writing and shall be based on the entire record of proceedings.

(c) Availability of Candidate Findings and Statement of Overriding Considerations

Where candidate findings and a statement of overriding considerations are required in accordance with Section 128.0312, the Planning Director shall make them available to the public and decision makers before the first public hearing to consider approval of the project.

ISSUE #18: When a Public Right-of-Way Permit is Required

§129.0702 When a Public Right-of-Way Permit Is Required

(a) A Public Right-of-Way Permit is required for the following unless otherwise exempt under Section 129.0703:

(1) The private construction of public improvements by a private entity or a public entity other than the City;

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

(b) [No change.]

ISSUE #19: Qualifications to Prepare Plans and Perform Work in the Public Right-of-Way

§129.0720 Qualifications to Prepare Plans and Perform Construction Work in the Public Right-of-Way or Public Service Easement

The preparation of plans for, and the construction of, work regulated by this division shall only be performed by persons with the following qualifications:

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

(f) All construction work required regulated by this division shall be performed by a contractor licensed by the State of California except for with the following exceptions:
(1) Any person owning property that is or will be that person’s primary residence may perform grading on that property.

(2) Any construction work authorized by a Public Right-of-Way Permit as a result of application by a public utility may be performed by the public utility.

**ISSUE #20: Applying OP Zone to City Parkland Prior to Dedication**

§131.0202 Purpose of the OP (Open Space--Park) Zones

(a) The purpose of the OP zones is to be applied to public parks and facilities, once they are dedicated as park land pursuant to City Charter Section 55 in order to promote recreation and facilitate the implementation of land use plans. The uses permitted in these zones will provide for various types of recreational needs of the community.

(b) [No change.]

**ISSUE #21: Clarification of Street Light Requirement**

§142.0670 Standards for Public Improvements

(a) through (d) [No change]

(e) Street lights are a public improvement required as a condition of approval for a new subdivision map and shall be constructed in accordance with the standards established in the Land Development Manual.

(f) [No change.]

**ISSUE #22: Exemptions from Historic Resources Site Survey**

§143.0212 Need for Site-Specific Survey and Determination of Location of Historical Resources

(a) The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a construction permit or development permit for development proposed for any parcel containing a structure that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps. The following development does not have the potential to adversely impact historical resources and shall be exempt from the requirements of Section 143.0212:

(1) Interior development and any modifications or repairs that are limited in scope to an electrical or plumbing/mechanical permit shall be exempt from the requirement to obtain a site specific survey prior to approval of the applicable construction.
permit where the development would not include a change to the exterior of existing structures.

(2) In kind roof repair and replacement shall be exempt from the requirement to obtain a site-specific survey prior to approval of the applicable construction permit.

(3) In kind foundation repair and replacement, except for structures with a decorative block or cobblestone foundation; and

(4) Construction of a swimming pool in a rear yard, except on a property that requires a survey in accordance with Section 143.0212(b).

(b) [No change.]

(c) The City Manager shall determine the need for a site-specific survey within 10 business days of application for a construction permit or within 30 calendar days of application for a development permit. A site-specific survey shall be required when the City Manager determines that a historical resource may exist on the parcel, and if the development proposes a substantial alteration consistent with SDMC 143.0250(a)(3). If the City Manager determines that a site-specific survey is not required within the specified time period, a permit in accordance with Section 143.0210 shall not be required.

(d) [No change.]

USE AMENDMENTS:

ISSUE #23: Manufacturing (Light vs Heavy)

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

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

(6) [See Issues #24 and #26.]

(7) through (8) [No change.]

(9) [See Issue #25.]

(10) Industrial Use Category
This category includes uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced. The industrial subcategories are:

(A) **Heavy Manufacturing** — Uses that process, fabricate, or assemble, or treat materials for the fabrication of large base-sector products. Assembly of large equipment and machines is included in this category using large outdoor equipment such as cranes and large tanks to produce unpackaged bulk products such as steel, paper, lumber, fertilizer, or petrochemicals. This subcategory as well as includes heavy manufacturing uses that typically produce disturbing noise, dust, or other pollutants capable of harming or annoying adjacent uses.

(B) **Light Manufacturing** — Uses that process, fabricate, assemble, treat, or package finished parts or products without the use of explosives or unrefined petroleum materials. (This subcategory does not include the assembly of large equipment and machinery.) This subcategory includes light manufacturing uses that produce a wide variety of products including, but not limited to, food, beverages, durable goods, machinery, and equipment.

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

(b) [No change.]

§131.0623  **Additional Use Regulations of Industrial Zones**

The additional use regulations identified in this section are applicable to uses where indicated in Table 131-06B.

(a) [No change.]

(b) [See Issues #27 and 29]

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

(e) Light manufacturing and assembly uses in the IP-1-1 zone and IP-3-1 zone are limited to the following:

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

(6) Manufacturing of biological, biomedical, and pharmaceutical products; and

(7) Manufacturing of scientific, engineering, and medical instruments; and

(8) **Beverage manufacturing and production, which may include an accessory tasting room.**
ISSUE #24: Tasting Rooms and Tasting Stores

§131.0112  Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

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

(6) Commercial Services Use Category

This category includes uses that provide for consumer or business services, for the repair and maintenance of a wide variety of products, and for entertainment. The commercial services subcategories are:

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

(C) Eating and Drinking Establishments — Uses that prepare or serve food or beverages for consumption on or off the premises.

(D) through (I) [No change.]

(J) [See Issue #26.]

(K) (J)

(L) (K)

(L) Tasting rooms - Uses associated with a beverage manufacturer that offer tastings and sell beverages manufactured on the premises for on-site or off-site consumption. This subcategory includes establishments such as a brewery, winery, or distillery that offer tastings and sales of alcoholic beverages in accordance with a license issued by the California Department of Alcoholic Beverage Control. (This subcategory does not include retail tasting stores subject to Section 141.0507.)

(7) through (8) [No change.]

(9) [See Issue #25.]

(10) [See Issue #23.]
Add new use categories to Ch 13 use tables. Allow retail tasting stores as limited use in all commercial (except CP), IL and IS. Not permitted in open space, Agricultural, Residential, CP, IP, IBT or IH.

§141.0507 Retail Tasting Stores

Retail tasting stores are branch locations affiliated with a licensed beer manufacturer, which sell or deliver alcoholic beverages that are manufactured by the business at another premises for consumption on or off of the premises of the retail tasting store. Retail tasting stores include any establishment for which a Duplicate Type 1 Beer Manufacturer License or a Duplicate Type 23 Small Beer Manufacturer License has been obtained from, or for which an application has been submitted to, the California Department of Alcoholic Beverage Control. This use category does not apply to tasting rooms located on the premises of a licensed beer manufacturer.

Retail tasting stores are permitted as a limited use in the zones indicated with a “L” in the Use regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) Off-street parking shall be provided in accordance with Section 142.0530 Table 142-05E (Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development).

(b) In CN zones and on properties abutting residentially zoned property, retail tasting stores shall not operate between the hours of midnight and 6:00 a.m.

ISSUE #25: Distribution and Storage Uses

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

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

(6) [See Issues #24 and #26.]

(7) through (8) [No change.]

(9) Wholesale, Distribution, and Storage Use Category

This category includes uses that provide and distribute and store goods in large quantities, especially to retail sales establishments. Long-term and short-term storage of commercial goods and personal items is included. The wholesale, distribution, storage subcategories are:
(A) Equipment and Materials Storage Yards – Uses related to engaged in the outdoor storage of large equipment or products or large quantities of material.

(B) Moving and Storage Facilities – Uses engaged in the moving and storage of household or office furniture, personal items, appliances, and equipment from one location to another, including the temporary storage of those same items.

(C) Warehouse — Uses engaged in long term and short term storage of goods in bulk as well as storage by individuals in separate storage compartments.

(D) Wholesale Distribution Facilities — Uses engaged in the bulk commercial storage and distribution of goods. Wholesale showrooms with limited retail sales to the public are also included.

(10) [See Issue #23.]

Amend Chapter 13 Use Tables accordingly.

§142.0530 Nonresidential Uses — Parking Ratios

Table 142-05G
Parking Ratios for Specified Non-Residential Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Spaces Required per 1,000 Square Feet of Floor Area Unless Otherwise Noted (Floor Area Includes Gross Floor Area plus below Grade Floor Area, and Excludes Floor Area Devoted to Parking)</th>
<th>Required Automobile Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Required Outside a Transit Area</td>
<td>Minimum Required Within a Transit Area</td>
</tr>
<tr>
<td>Wholesale, Distribution, and Storage (5)</td>
<td>1.0 (5)</td>
<td>1.0 (5)</td>
</tr>
<tr>
<td>All wholesale, distribution and storage uses</td>
<td>1.0 space/10,000 sq ft plus 3.3 space per 1,000 square foot of accessory office space</td>
<td>N/A</td>
</tr>
<tr>
<td>Self Storage Facilities</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
ISSUE #26: Assembly and Entertainment Uses, Including Churches

§131.0112 Descriptions of Use Categories and Subcategories

(a) The following are descriptions of each use category and subcategory found in the Use Regulations Tables of each base zone. These descriptions shall be used to classify specific uses into use subcategories for the purpose of determining applicable use regulations, in accordance with Section 131.0110. A description of separately regulated uses is located in Section 131.0112(b).

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

(6) Commercial Services Use Category

This category includes uses that provide for consumer or business services, for the repair and maintenance of a wide variety of products, and for entertainment. The commercial services subcategories are:

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

(C) [See Issue #24.]

(D) through (I) [No change.]

(J) Assembly and Entertainment—Uses that provide gathering places for large numbers of people for recreation, physical fitness, entertainment, or other assembly.

(K)(J) Radio and Television Studios - Uses that provide for the production, recording, and broadcasting of radio and television shows and motion pictures.

(L)(K) Visitor Accommodations - Uses that provide lodging, or a combination of lodging, food, and entertainment, primarily to visitors and tourists. (Outside the Coastal Overlay Zone, includes single room occupancy hotels.)

(L) [See Issue #24.]

(7) through (8) [No change.]

(9) [See Issue #25.]

(10) [See Issue #23.]

(b) [No change.]
Amend Ch 13 use tables accordingly to remove the “churches” and “assembly and entertainment” use categories. Add the new separately regulated use category. Change all church and assembly entertainment uses with “P” to the new assembly use with “L”.

Not permitted: OP-2-1, OC, OR, OF, AG, RE, RX, RS, RT; CP; IP, IL-1-1, IH, IBT
Limited: \( \text{L}^{(2)} \) in OP-1-1; RM; CC; CR; CO; \( \text{L}^{(10)} \) in CV and CN; IL-2-1; IL-3-1; IS
Conditional: keep as “C” in AR zone (since other assembly is currently not permitted)

§141.0602 Assembly and Entertainment Uses, Including Churches

This use category applies to facilities that serve as gathering places for large numbers of people, typically at least 25 people, for recreation, physical fitness, entertainment, or other assembly, including religious assembly. Assembly and entertainment uses may be permitted as a limited use in accordance with Process One in zones indicated with a “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Section 141.0602(a) and (b). Assembly and entertainment uses may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and are subject to the regulations in Section 141.0602(a) and (c).

(a) General regulations

(1) Assembly and entertainment uses are not permitted:

(A) Within the MHPA;

(B) Within floodplains located in the Coastal Overlay Zone; or

(C) On a premises that is identified as Prime Industrial Land in a land use plan.

(2) Off-street parking shall comply with one of the following ratios:

(A) If seating is fixed, 1 parking space per 3 seats in the assembly area; or 1 parking space per 60 inches of bench or pew seating space;

(B) If seating is not fixed, 30 parking spaces per 1,000 square feet of assembly area; or

(C) Other specified off-street parking standard in Table 142-05G applicable to the type of assembly and entertainment use.

(3) The premises and adjacent public right-of-way shall be kept free of litter.

(4) Auditoriums accessory to professional office or industrial development are not subject to the limitations in Section 141.0602.
(b)  **Limited use regulations**

1. The facility shall be designed to accommodate a maximum of 300 people. Larger facilities are subject to approval of a Conditional Use Permit in accordance with Section 141.0602(c).

2. Assembly facilities adjacent to residentially zoned property shall not operate between the hours of 10:00 p.m. and 6:00 a.m.; except for churches and religious facilities, and facilities hosting events on Fridays and Saturdays which may operate until 11:00 p.m.

3. Off-street parking for the facility shall be accommodated on-site.

(c)  **Conditional use regulations**

1. Hours of operation shall be limited to minimize disturbance to neighboring development.

2. Structures shall be placed on the site so that larger or high-activity buildings are placed away from adjacent property with smaller structures and lower levels of activity.

3. Off-street parking areas shall be located away from adjacent residential property where possible to minimize disturbance to neighboring development.

4. The maximum capacity, including limits on the intensity of accessory uses, shall be limited to a level commensurate with the size of the premises, the intensity of surrounding development, and the capacity of streets serving the facility.

5. Structures shall be designed to incorporate a variety of architectural elements that help to diminish building bulk.

§142.0530  **Nonresidential Uses — Parking Ratios**

**Table 142-05G**

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Automobile Parking Spaces (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Required Outside a Transit Area</td>
</tr>
<tr>
<td>Institutional</td>
<td></td>
</tr>
<tr>
<td>Separately regulated</td>
<td></td>
</tr>
</tbody>
</table>

Note: Floor Area includes Gross Floor Area plus below Grade Floor Area, and excludes Floor Area devoted to parking.
<table>
<thead>
<tr>
<th>uses</th>
<th>CU-1</th>
<th>CU-2</th>
<th>CU-3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Churches and places of religious assembly</td>
<td>C</td>
<td>C</td>
<td></td>
</tr>
<tr>
<td>Commercial Services</td>
<td>-</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Assembly &amp; Entertainment</td>
<td>-</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Separately Regulated Commercial Services</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Footnotes For Table 142-05G [No change]

Central Urbanized Planned District Ordinance

§155.0238 Use Regulations Table of CU Zones

The uses allowed in the CU zones are shown in Table 155-02C:

Table 155-02C Use Regulations Table for CU Zones
Chapter 15, Article 10: La Jolla Shores Planned District

§1510.0303 Single-Family Zone - Permitted Uses

In the Single-Family (SF) Zone, designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following uses:

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

(e) Churches, temples or buildings of a permanent nature, used primarily for religious purposes.

(f) Electric distribution and gas regulating stations as a conditional use subject to a Process Three Conditional Use Permit in accordance with Land Development Code Section 141.0408 (Separately Regulated Use Regulations).

(g) Golf courses as a conditional use subject to a Process Four Conditional Use Permit in accordance with Land Development Code Section 141.0609 (Separately Regulated Use Regulations).

§1510.0307 Visitor Zone-Permitted Uses

In the Visitor (V) Zone, designated on that certain map referenced in Section 1510.0102, no building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes:

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

(d) Assembly and entertainment uses, including churches and places of religious assembly as a conditional use subject to a Process Three Conditional Use Permit in accordance with Land Development Code Section 141.0602 (Separately Regulated Use Regulations).

(e) In the portion of Pueblo Lot 1286 bounded by La Jolla Shores Drive, Torrey Pines Road and La Jolla Parkway (dedicated but unimproved as a roadway) a restaurant and automobile service station will be permitted in addition to any of the other visitor area uses.

(f) Any other uses the Planning Commission may find, in accordance with Process Four, to be similar in character to the uses, including accessory uses, enumerated above and consistent with the purpose and intent of the Visitor Zone and the La Jolla Shores
Planned District Ordinance. The adopted resolution embodying such finding shall be filed in the office of the City Clerk.

§1510.0309 Commercial Center Zone-Permitted Uses

[No change to intro paragraph through (e).]

(f) Assembly and entertainment uses, including churches and places of religious assembly as a conditional use subject to a Process Three Conditional Use Permit in accordance with Land Development Code Section 141.0602 (Separately Regulated Use Regulations).

(4g) Any other use which the Planning Commission may find, in accordance with Process Four, to be similar in character to the uses enumerated above and consistent with the purpose and intent of the Commercial Center Area (CC) and the La Jolla Shores Planned District. The adopted resolution embodying such finding shall be filed in the office of the City Clerk.

ISSUE #27: Drive-in and Drive-through Eating and Drinking Establishments

Amend Ch 13 Zones: Chapter 13 Tables:

- Add new Footnote 16 to Table 131-05B and apply to the eating and drinking establishment category in all zones where the use is allowed. Text should state: “Eating and drinking establishments abutting residential zones may operate only during the hours between 6:00 a.m. and 12:00 midnight.”

- Revise existing Footnote 4 to Table 131-05B to state: “Live entertainment and the sale of intoxicating beverages other than beer and wine are not permitted in CN zones, unless a Planned Development Permit is granted in accordance with Section 126.0602(b)(1).”

- Remove old use category for “Eating and Drinking Establishments Abutting Residentially Zoned Property”. Add new use category for Drive-in and Drive-through Eating and Drinking Establishments.
Not permitted: open space, agricultural or residential; IS, IP-1-1, IH-1-1; or in pedestrian oriented CN-1-1 or CN-1-3, CV-1-2; CC-3; CC-4-4, 5; CC-5-4, 5
Permitted: CR; CV-1-1; CC-1, 2; CC-4-1, 2, 3, CC-5-1, 2, 3; and IL-3-1
Conditional: CN-1-2; IP-2-1; IP-3-1; IL-1-1; IL-2-1; IH-2-1; IBT

§131.0623 Additional Use Regulations of Industrial Zones

The additional use regulations identified in this section are applicable to uses where indicated in Table 131-06B.

(a) [No change.]

(b) Eating and drinking establishments are permitted subject to the following:
(1) [No change.]

(2) [See Issue #28.]

(3) No Drive-in or drive-through services are permitted subject to approval in accordance with Section 141.0607; and

(4) Eating and drinking establishments abutting residential zones may operate only during the hours between 6:00 a.m. and 12:00 midnight.

§141.0607——Eating and Drinking Establishments Abutting Residentially Zoned Property

Eating and drinking establishments on premises abutting residential zones 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 regulations in Section 141.0607(a). Eating and drinking establishments abutting residentially zoned property that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the regulations in Section 141.0607(b).

(a) Limited Use Regulations

(1) Eating and drinking establishments abutting residential zones may operate only during the hours between 6:00 a.m. and 12:00 midnight.

(2) In the IL 3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).

(3) Drive-in and drive-through restaurants, live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.

(b) Neighborhood Use Permit Regulations. Except in the CN zones, eating and drinking establishments abutting residential zones that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the following regulations.

(1) All activities associated with the establishment shall occur within an enclosed building between the hours of 12:00 midnight and 6:00 a.m.

(2) Drive-up or drive-through service is not permitted between the hours of 12:00 midnight and 6:00 a.m.
Live entertainment is not permitted between the hours of 12:00 midnight and 6:00 a.m.

The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises.

In the IL 3-1 zone, eating and drinking establishments shall also comply with Section 131.0623(b).

§141.0607 Eating and Drinking Establishments with a Drive-in or Drive-through Component

Eating and drinking establishments with a drive-in or drive-through component are permitted by right in the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Eating and drinking establishments with a drive-in or drive-through component in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations:

(a) The decision maker shall impose conditions that minimize adverse impacts on adjacent properties and surrounding neighborhoods by addressing issues that may include:

(1) Adequate parking to address customer and employee parking demand;

(2) A pedestrian and vehicular circulation plan that ensures public safety;

(3) Space for vehicle queuing for the associated drive-in or drive-through component;

(A) Queue space for a minimum of five cars shall be provided for each drive-up service window or position as measured from the food/beverage pick-up window. The queue space for each car shall be 10 feet wide and 20 feet long.

(B) Required queue spaces shall not obstruct access to parking aisles or parking spaces.

(4) Limits on the hours of operation;

(A) In CN zones and on properties abutting residentially zoned property, eating and drinking establishments with a drive-in or drive-through component shall not operate between the hours of midnight and 6:00 a.m.
(B) For the purpose of Section 141.0607, the limit on hours of operation in Section 141.0607(a)(4)(A) shall also apply to any property that is separated from a residentially zoned property by an alley.

(C) Hours may be further limited by the decision maker as appropriate for the location.

(5) Noise reduction techniques, including measures to ensure that speaker systems are not audible beyond the property line above daytime ambient noise levels and do not exceed 65 decibels at the property line.

(6) Lighting control plan to minimize potential off-site impacts; and

(7) Litter control plan to keep the establishment and adjacent properties free of litter attributable to the establishment.

(A) A minimum of one outdoor trash and one outdoor recycling receptacle shall be provided on-site adjacent to each driveway exit. At least one additional on-site outdoor trash receptacle shall be provided for every 10 required parking spaces.

(B) The operator of the establishment shall be responsible for collecting litter attributable to the establishment or its customers, including food wrappers, containers, and packaging from restaurant products within a 300 foot radius of the premises at a frequency of at least once a day each day the establishment is open for business.

(8) The operator of the establishment shall take reasonable steps to prevent loitering on the premises, in parking lots serving the premises, and on public sidewalks adjacent to the premises.

(b) Amortization period for Previously Conforming Hours of Operation

(1) An amortization period of 7 years shall apply to any eating and drinking establishment with a drive-in or drive-through component that is previously conforming with respect to the hours of operation required by Section 141.0607(a)(4). Seven years from the effective date of the ordinance [that established this amortization period]; such establishments shall cease operation of the drive-in or drive-through window component between the hours of midnight and 6:00 a.m.

(2) Establishments with an approved Planned Development Permit that authorizes less restrictive hours of operation are permitted to operate in accordance with the hours specified in the development permit and shall not be subject to the amortization period in Section 141.0607(b)(1), unless the development permit is
revoked in accordance with Section 121.0313 or is otherwise cancelled or rescinded by the permit holder in accordance with Section 126.0110.

ISSUE #28: Companion Units

§131.0322 Use Regulations Table for Agricultural Zones

Amend Table 131-03B. Keep “Companion Units” as not permitted in AG; Change from “C” to “L” in AR zones

§141.0302 Companion Units

A companion unit is a dwelling unit that is an accessory use for a single dwelling unit on a residential lot that provides complete living facilities, including a kitchen, independent of the primary dwelling unit. Companion units are permitted as a limited use in accordance with Process One in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) and Chapter 15, Article 1, Division 4 (General and Supplemental Regulations), subject to the following regulations:

(a) through (o) [No change.]

(p) The companion unit shall be constructed with the same siding and roofing materials as the primary dwelling unit.

(q) Within the Coastal Overlay Zone, companion units are subject to the provisions of Chapter 12, Article 6, Division 7.

ISSUE #29: Allowance for Live Entertainment in Industrial Zones

§131.0623 Additional Use Regulations of Industrial Zones

The additional use regulations identified in this section are applicable to uses where indicated in Table 131-06B.

(a) [No change.]

(b) Eating and drinking establishments are permitted subject to the following:

(1) [No change.]

(2) No live entertainment is permitted on the premises in an IH zone or on any premises abutting a residential zone; and

(3) [See Issue #26.]

(c) through (d) [No change.]
(e) [See Issue #22]

(f) through (i) [No change.]

**ISSUE #30: Satellite Antennas in Industrial Zones**

§141.0405  Satellite Antennas

Satellite antennas are permitted as a limited use subject to Section 141.0405(b), and may be permitted with a Neighborhood Use Permit subject to Section 141.0405(c), or with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0405(d).

(a) Exemption. Satellite antennas that are 5 feet in diameter or smaller are permitted in all zones and The following satellite antennas are exempt from the requirements under Sections 141.0405 and 141.0420:

1. In all zones, satellite antennas that are 5 feet in diameter or smaller; and
2. In industrial zones, satellite antennas that are accessory uses.

(b) Limited Use Regulations. Satellite antennas that exceed 5 feet in diameter are permitted as a limited use in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

1. through (4) [No change.]

5. Ground-mounted satellite antennas shall not be located in the street yard, street, front yard, or street side yard of a premises.

6. through (8) [No change.]

(c) [No change.]

(d) Conditional Use Permit Regulations. Except for satellite antennas which are accessory uses in industrial zones, satellite antennas that exceed 10 feet in diameter, except where permitted in accordance with Section 141.0405(a)(2), may be permitted only with shall require a Conditional Use Permit decided in accordance with Process Three subject to the following regulations:

1. through (3) [No change.]
ISSUE #31: Historic Buildings Occupied by Uses Not Otherwise Allowed

§141.0411 Historical Buildings Occupied by Uses Not Otherwise Allowed

Historical buildings occupied by uses not otherwise allowed may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

(c) The proposed use of the building shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed. In order to minimize detrimental effects to neighboring properties, any proposed separately regulated uses in a historical building shall be required to comply with the regulations in Chapter 14, Article 1 (Separately Regulated Use Regulations) for each separately regulated use as applicable.

(d) through (h) [No change.]

§156.0315 Separately Regulated Uses

(a) through (g) [No change.]

(h) Historical Buildings Occupied by Uses Not Otherwise Allowed

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

(1) The building must be designated as a historical resource by the City of San Diego Historical Resources Board before approval of the Conditional Use Permit.

(2) The proposed use of the historical resource shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed. In order to minimize detrimental effects to neighboring properties, any separately regulated uses proposed in a historical resource shall be required to comply with the regulations in Section 156.0315 (Centre City Planned District Ordinance Separately Regulated Uses) or Land Development Code Chapter 14, Article 1 (citywide Separately Regulated Use Regulations) for each separately regulated use as applicable.

(3) The historical resource shall be preserved, restored, rehabilitated, reconstructed, or maintained in its original historical appearance in accordance with Land Development Code Chapter 14, Article 3, Division 2 of this Code.
(4) Any facilities that are constructed as part of the new use shall be designed to be similar in scale and style with the historical use, and cause no more than a minor alteration to the *historical resource* in accordance with Historical Resources Regulations unless the *development* is approved through a Site Development Permit or Neighborhood Development Permit in accordance with Land Development Code Chapters 11 through 14 of this Code.

(i) through (j) [No change]

**ISSUE #32: Plant Nurseries**

§141.0504 Plant Nurseries

For the purpose of Section 141.0504 plant nurseries are commercial establishments where plants are cultivated and grown for transplant, distribution, and sale that have a sales transaction area greater than 300 feet. Plant nurseries are permitted without limitation in the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Plant nurseries may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) The location, number, and intensity of other nonagricultural establishments located in the vicinity will be evaluated to determine the appropriate size and intensity of the proposed establishment.

(b) The proximity and capacity of freeways, primary arterials, and major streets will be evaluated to determine the appropriate size and intensity of the proposed establishment.

(c) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.

(d) Section 141.0504 shall not apply to the sale of plants from a garden center or other retail store in zones where the sale of consumer goods is permitted.

**ISSUE #33: Marine-Related Uses in the Coastal Zone**

§141.1003 Marine-Related Uses in the Coastal Zone

Marine-related uses in the Coastal Overlay Zone are permitted without limitation in the zones indicated with an “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Marine-related uses in the Coastal Overlay Zone may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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