

Issue #1: Easement and Public Right of Way Vacations

Comment [a3j1]: Renumber this issue prior to Planning Commission to reflect removal of Section 22.0220 from the update package.

§125.0910 When a Public Right-of-Way Vacation May Be Initiated

- (a) The vacation of a *public right-of-way* may be initiated by resolution of the City Council or by petition or request of any person pursuant to the California Streets and Highway Code. A *public right-of-way* also may be vacated by filing a *tentative map* and a final or parcel map or final map pursuant to the *Subdivision Map Act*, Sections 66434(g), 66445(j), 66499.20 ¼ or 66499.20 1/2, and in accordance with the provisions of this article.
- (b) A *public right-of-way* may be summarily vacated if it does not contain *public utility* facilities, does not contain active *public utility* facilities, or contains *public utility* facilities that would not be affected by the vacation and if any of the following applies:
- (1) The *public right-of-way*, or portion of the *public right-of-way*, is excess *public right-of-way* and is not required for *street* or highway purposes;
 - (2) The *public right-of-way* lies within one ownership and does not continue through that ownership or touch the property of another owner;
 - (3) The *public right-of-way* has been impassable for vehicular travel for a period of 5 years and public funds have not been expended for maintenance of the *public right-of-way* during that period.
 - (4) The *public right-of-way* is intercepted by a state *freeway* and an agreement has been entered into pursuant to California Streets and Highways Code Section 100.2.
 - (5) The *public right-of-way* has been superseded by relocation, provided the vacation would not cut off all access to an individual property that, before relocation, adjoined the *public right-of-way*.
 - (6) The *public right-of-way* does not terminate a public service easement, unless the easement satisfies the requirements of Section 8333 of the California Streets and Highways Code.
- (c) A public street, highway or public service easement may not be summarily vacated if there are existing public utility facilities that are in use and would be affected by the vacation.
- (e)(d) Public facilities within the *public right-of-way* shall be deemed unaffected by the vacation if they are to be relocated with no impact on service or if an appropriate easement is reserved from the vacation pursuant to Section 8340 of the Streets and Highways Code to provide for the continued use and maintenance of the public facility.

§125.0940 Decision Process for a Public Right-of-Way Vacation

A decision on an application to vacate a *public right-of-way* shall be made in accordance with Process Five with the following exceptions to Process Five procedures:

- (a) The Notice of Public Hearing required by Section 112.0301(c) shall be distributed 14 calendar days before the date of the public hearing, and shall be published in a newspaper of general daily circulation for at least two successive weeks prior to the hearing in accordance with California Streets and Highways Code Section 8322. The Notice of Public Hearing shall be posted in accordance with California Streets and Highways Code Section 8323.
- ~~(b) Before a City Council hearing to vacate a *public right-of-way*, the City Council shall approve a Resolution of Intention that specifies the time and place of the hearing in accordance with California Streets and Highways Code Section 8320.~~
- ~~(c)~~ (b) A summary vacation of a *public right-of-way* pursuant to Section 125.0910(b) does not require a Resolution of Intention as specified in Section 125.0940(b) or a recommendation by the Planning Commission.

§125.0941 Findings for Public Right-of-Way Vacation Approval

A *public right-of-way* may be vacated only if the decision maker makes the following *findings*:

- (a) There is no present or prospective public use for the *public right-of-way*, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- (b) The public will benefit from the action through improved use of the land made available by the vacation;
- (c) The vacation does not adversely affect any applicable *land use plan* or; and
- (d) The public facility for which the *public right-of-way* was originally acquired will not be detrimentally affected by the vacation.

§125.0950 Recording of a Public Right-of-Way Vacation

If the vacation is approved, the City shall provide the resolution and any accompanying documents to the County Recorder for recordation. If the resolution contains conditions, it shall not be provided to the County Recorder for recordation until the City Engineer has determined that all conditions have been met. The filing for record of a *subdivision map* pursuant to the *Subdivision Map Act*, Sections 66434(g), 66445(i), 66499.20 1/4 or 66499.20 1/2, shall have the same effect.

Article 5: Subdivision Procedures
Division 10: Easement ~~Abandonments~~ Vacations

§125.1001 Purpose of Easement ~~Abandonment~~ Vacation Procedures

The purpose of these procedures is to establish the process to abandon *public service easement* and other easements granted to the public or the City of San Diego and to supplement the provisions of California Streets and Highways Code Sections 8300 through 8363.

§125.1010 When an Easement ~~Abandonment~~ Vacation May Be Initiated

- (a) The ~~abandonment~~ vacation of a *public service easement* or other easement may be initiated by resolution of the City Council or by petition or request by any person who has a property interest in the ~~abandonment~~ vacation.
- (b) A *public service easement* or other easement may also be ~~abandoned~~ vacated by filing a tentative map and a parcel map or final map pursuant to the *Subdivision Map Act*, Sections 66434(g), 66445(j), 66499.20 ¼ or 66499.20 1/2, and in accordance with the provisions of this article.
- (c) A *public service easement* or other easement may be summarily ~~abandoned~~ vacated if it does not contain *public utility* facilities or does not contain active *public utility* facilities that would be affected by the ~~abandonment~~ vacation and if any one of the following applies:
- (1) The easement has not been used for the purpose for which it was dedicated or acquired for 5 consecutive years immediately ~~proceeding~~ preceding the proposed ~~abandonment~~ vacation;
 - (2) The date of *dedication* or acquisition is less than 5 years and more than 1 year immediately ~~proceeding~~ preceding the proposed ~~abandonment~~ vacation, and the easement has not been used continuously since the date of *dedication*; or
 - (3) The easement has been superseded by relocation and there are no other public facilities located within the easement.

§125.1020 How to Apply for an Easement ~~Abandonment~~ Vacation

An application for ~~abandonment~~ vacation of a *public service easement* or other easement shall be filed in accordance with Section 112.0102.

§125.1030 Decision Process for an Easement ~~Abandonment~~ Vacation

A decision on an application to abandon a *public service easement* or other easement shall be made in accordance with Process Five, with the following exceptions to Process Five procedures.

- (a) The Notice of Public Hearing required by Section 112.0301(c) shall be distributed 14 calendar days before the date of the public hearing, and shall be published in a newspaper of general daily circulation for at least two successive weeks prior to the hearing in accordance with California Streets and

Highways Code Section 8322. The Notice of Public Hearing shall be posted in accordance with California Streets and Highways Code Section 8323.

~~(b) Before a City Council hearing to abandon a *public service easement* or other easement, the City Council shall approve a Resolution of Intention that specifies the time and place of the hearing in accordance with California Streets and Highways Code Section 8320.~~

~~(e)~~ (b) A summary **abandonment vacation** of a *public service easement* or other easement pursuant to Section 125.1010(c) does not require a Resolution of Intention as specified in Section 125.1030(b) or a recommendation by the Planning Commission.

§125.1040 Findings for a Public Service Easement Abandonment Vacation

A *public service easement* or other easement may be ~~abandoned~~ **vacated** only if the decision maker makes the following *findings*:

- (a) There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- (b) The public will benefit from the action through improved utilization of the land made available by the ~~abandonment~~ **vacation**;
- (c) The ~~abandonment~~ **vacation** is consistent with any applicable *land use plan*; and
- (d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the ~~abandonment~~ **vacation** or the purpose for which the easement was acquired no longer exists.

§125.1050 Recording of Easement Abandonments Vacations

If the ~~abandonment~~ **vacation** is approved, the City shall provide the resolution and any accompanying documents to the County Recorder for recordation. If the resolution contains conditions, it shall not be provided to the County Recorder for recordation until the City Engineer has determined that all conditions have been met. The filing for record of a *subdivision map* pursuant to the *Subdivision Map Act*, Sections ~~s 66434(g), 66445(j), 66499.20 ¼ or 66499.20 1/2~~ shall have the same effect as filing a resolution of ~~abandonment~~ **vacation**.

Issue #2: Condominium Conversion Map Notices

§98.0720 Definitions

The following definitions apply to the administration and enforcement of this division:

“*Condominium*” means the same as defined in sections 783 and ~~1357~~ **1351(f)** of the California Civil Code.

§125.0431 Additional Notice for a Condominium Conversion Map

- (a) For a *tentative map* for a *condominium conversion* project, the *subdivider* shall provide the following notices in addition to the notice provided for in Chapter 11, Article 2, Division 3 (Notice):
- (1) Notice to each tenant of the proposed project required in the *Subdivision Map Act* section 66427.1; and
 - (2) Notice to each person applying for the rental of a unit in the proposed project required in Chapter 11, Article 2, Division 3 (Notice) and *Subdivision Map Act* section ~~66452.8~~ 66452.17;
 - (3) through (5) [No change]
 - (6) Following approval of a *tentative map* for *condominium conversion*, a 180 Day Notice of Intention to Convert shall be provided to each tenant prior to termination of tenancy due to *condominium conversion* pursuant to *Subdivision Map Act* section 66452.11.
- (b) [No change]

Issue #3: Application Expiration For Process One Maps and Construction Permits

§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) Applications for *construction permits* and Process One map approvals expire 2 years from the date the application is *deemed complete*, unless otherwise stated in the Land Development Code.
 - (2) The application may be extended for a period not exceeding 180 calendar days, if the City Manager determines that circumstances beyond the control of the *applicant* prevented issuance of the associated permit or Process One map approval. In such cases, the existing application shall be automatically extended until a decision is made regarding the request for extension.
 - (3) Once expired, the application, plans, and other data submitted for review may be returned to the applicant or destroyed by the City Manager.

- (4) 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 #4: Notice of Availability of Local Coastal Program Amendments

§112.0301 Types of Notice

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

(d) Notice of Availability of Local Coastal Program Amendment. A Notice of Availability is a written notice to advise of the availability of supporting materials for an action that will be taken by the City Council at a future date. A Notice of Availability is required as part of the certification process for Local Coastal Program Amendments in accordance with Section 122.0106.

(1) Content. The Notice of Availability of Local Coastal Program Amendment shall include the following:

(A) A general description of the project.

(B) The location of the property that is the subject of the application;

(C) The applicable community planning area(s);

(D) The name, telephone number, and city address of the City staff person to contact for additional information;

(E) The name of the *applicant* and, with the consent of the *applicant*, the applicant's address and telephone number; and

(F) An explanation that the final decision by the City Council will occur no sooner than 6 weeks after the date of mailing the Notice of Availability.

(2) Distribution.

(A) The City Manager shall distribute the Notice of Availability at least 6 weeks prior to the City Council hearing to approve or deny an amendment to the *Local Coastal Program*.

(B) The City Manager shall distribute the Notice of Availability to the persons described in Section 112.0302(b) and to the public agencies required in accordance with the applicable provisions of the California Coastal Act and

Guidelines for Local Coastal Program certification

(C) The Notice of Availability may be combined into a single notice document with the Notice of Public Hearing (Planning Commission).

(3) A subsequent Notice of Public Hearing shall be provided in accordance with Section 112.0301(c) prior to final decision by the City Council.

Issue #5: Mailed Notice

§112.0302 Notice by Mail

- (a) [No Change]
- (b) Persons Entitled to Notice. Except as provided in Section 112.0302(c), the Notice of Application, Notice of Future Decision, and Notice of Public Hearing shall be mailed to the following:
- (1) The *applicant*;
 - (2) All **tenant** addresses located **on the subject property and all addresses** within 300 feet of the boundary of the real property that is the subject of the application, including each **tenant** address within a condominium or apartment complex;
 - (3) The owners of any real property, as shown on the latest equalized property tax assessment roll of the San Diego County Assessor, located within 300 feet of the boundary of the property that is the subject of the application;
 - (4) The officially recognized community planning group, if any, that represents the area in which the proposed development is located; and
 - (5) Any person who has submitted a written request for notification of the proposed *development* to the City staff person named in the Notice of Future Decision.
- (c) and (d) [No Change]

Issue #6: Grounds for Appeal of Process Two Decisions

§112.0504 Process Two Appeal Hearing

The Planning Commission shall hear appeals of Process Two decisions subject to the following **requirements**.

- (a) Persons Who Can Appeal. The following persons may request an appeal hearing after the designated staff person's decision:

- (1) An *applicant*; or
 - (2) Any other person who files an application for a Process Two appeal hearing in accordance with Section 112.0504(b).
- (b) Request for a Process Two Appeal Hearing. 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*.
- (c) Grounds for Appeal. A Process Two decision may be appealed on any of the following grounds:
- (1) Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate.
 - (2) New Information. New information is available to the *applicant* or the *interested person* that was not available through reasonable efforts or due diligence at the time of the decision.
 - (3) Findings Not Supported. The decision maker's stated *findings* to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
 - (4) Conflicts. The decision to approve, conditionally approve, or deny the permit is in conflict with a *land use plan*, a City Council policy, or the Municipal Code.
- (d) Scheduling an Appeal Hearing. The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 10 calendar days after the date on which an application for the appeal hearing is filed with the City Manager. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing. The appeal hearing shall be noticed in accordance with Section 112.0308.
- (e) Power to Act on the Decision at Appeal Hearing. At the conclusion of the appeal hearing, the Planning Commission may affirm, reverse, or modify the staff decision.

Issue #7: Environmental Determination Appeals

§ 112.0520 Environmental Determination Appeals

- (a) Persons Who Can Appeal
 - (1) Notwithstanding other provisions of this Code, any person may appeal an *environmental determination* by the City Manager.

- (2) Notwithstanding other provisions of this Code, any *interested person* may appeal to the City Council, a decision by the Planning Commission, to approve a negative declaration, mitigated negative declaration or an environmental impact report, ~~provided that~~ **where:**
- (A) The decision is associated with a Process Two, ~~or Three,~~ **or Four** decision, **and**
- (B) All available administrative appeals of the project decision have been exhausted.
- (b) Time for Filing an Appeal
- (1) An application to appeal a decision described in ~~s~~**S**ection 112.0520(a)(1) shall be filed in the Office of the City Clerk within the earlier of 10 *business days* from the date of the posting of the Notice of Right to Appeal Environmental Determination or 15 *business days* from the date of the *environmental determination*.
- (2) An application to appeal a decision described in ~~s~~**S**ection 112.0520(a)(2) shall be filed in the Office of the City Clerk within 10 *business days* from the date of the Planning Commission's decision.
- (c) **Scheduling Appeal Hearings.** The appeal hearing before the City Council shall be held, or the City Clerk shall set a date for the appeal hearing, no later than 30 calendar days after the date on which the application for an appeal is filed. The appeal hearing shall be noticed in accordance with ~~s~~**S**ection 112.0308.
- (d) **Power to Act on Appeal.** The City Council shall consider the appeal and **any associated map, permit, or other entitlements and** shall, by a majority vote:
- (1) Deny the appeal, uphold the *environmental determination* and adopt the CEQA findings **and statement of overriding considerations** of the previous decision-maker, where appropriate; or
- (2) **Grant the appeal and make a superseding *environmental determination* or CEQA findings; or**
- ~~(3)~~ Grant the appeal; **and** set aside the *environmental determination*, ~~and remand the matter to the previous decision-maker,~~ in accordance with ~~s~~**S**ection 112.0520~~(f)~~**(e)**, ~~to reconsider the *environmental determination* that incorporates any direction or instruction the City Council deems appropriate.~~
- ~~(e)~~ **If the City Council denies the appeal or grants the appeal under ~~s~~**S**ection 112.0520(d)(2), the lower decision-maker's decision to grant the entitlements, approval or City authorization, shall become effective immediately.**
- ~~(f)~~**(e)** If the City Council grants the appeal under ~~s~~**S**ection 112.0520~~(d)~~~~(3)~~**(d)(2)**,
- (1) ~~the~~ **The** lower decision-maker's decision to grant the entitlements, approval or City authorization shall be ~~deemed vacated~~ **held in abeyance**, ~~and the lower decision maker~~

~~shall reconsider its *environmental determination* and its decision to grant the entitlements, approval or City authorization, in view of the action and, where appropriate, any direction or instruction from the City Council.~~

- (1)(2) ~~If the *environmental determination* was a decision that the activity was not subject to CEQA, the matter shall be remanded to the **The** Development Services Director to prepare a revised **shall reconsider the *environmental determination*** in accordance with **sSection 128.0103 and prepare a revised environmental document as appropriate.**~~
- (2) ~~If the *environmental determination* was the certification of an environmental impact report or adoption of a negative declaration or mitigated negative declaration, associated with a Process Two or Three decision, the matter shall be remanded to the Planning Commission for consideration of a revised *environmental determination*.~~
- (3) ~~If the *environmental determination* was the certification of an environmental impact report or adoption of a negative declaration or mitigated negative declaration, associated with a decision by the City Manager, the matter shall be remanded to the City Manager for consideration.~~
- (3) **At a subsequent hearing, the City Council shall consider and take action on the revised environmental document. The City Council shall also make a decision of whether or not to grant approval of the associated permit, map, or other entitlements.**
- (g) ~~If the decision on remand, in accordance with section 112.0520(d)(3) results in the same type of environmental document, such decision shall be deemed the final action.~~

Issue #8: Minor Construction Permits

§113.0103 Definitions

Abutting property through Condominium conversion [No change]

Construction permit means a permit issued pursuant to Land Development Code Chapter 12, Article 9. Construction permits include the following: Building Permits, Electrical Permits, Plumbing/Mechanical Permits, Demolition/Removal Permits, Grading Permits, Public Right-of-Way Permits, **and** Sign Permits, **and** **Minor Construction Permits.**

Court, interior through Very low income [No change]

Visibility area [See Issue #30]

Wall, retaining (See retaining wall) through Yard [No change]

§129.0102 When Construction Permit Procedures Apply

The following permits require construction review, and the procedures for *construction permits* apply to these permits unless stated otherwise in this article: Building Permits, Electrical Permits, Plumbing or Mechanical Permits, Demolition/Removal Permits, Grading Permits, Public Right-of-Way Permits, and Sign Permits, and **Minor Construction Permits**.

§129.0203 Exemptions from a Building Permit

- (a) A Building Permit is not required for the following *structures* and activities.
 - (1) through (24) [No change]
- (b) The exemptions in Section 129.0203(a) are not exemptions from the electrical, plumbing, and mechanical permit requirements. Unless the proposed work is exempt under another section of the Land Development Code, separate electrical, plumbing, and mechanical permits may be required.
- (c) The exemptions in Section 129.0203(a) do not apply to **alterations, repairs, or improvements of historical resources as described in Section 143.0220**; [See Issue #21 ESL]
- (d) Exemption from the permit requirements of the Building Regulations does not authorize any work to be done in any manner in violation of the provisions of the Building Regulations or any other applicable local or state regulations.

Article 9: Construction Permits
Division 9: Minor Construction Permits

§129.0901 Purpose of Minor Construction Permit Procedures

The purpose of these procedures is to establish a streamlined process for construction review of Minor Construction Permit applications. Minor Construction Permits are intended for proposed *development* on private property that require construction review for the public health, safety, and welfare, but are exempt from the requirement for a Building Permit in accordance with Section 129.0203.

§129.0902 When a Minor Construction Permit Is Required

- (a) A Minor Construction Permit is required for the following where the proposed *development* would be exempt from the requirement for a Building Permit in accordance with Section 129.0203:
 - (1) Alterations, repairs or improvements of designated *historical resources* and properties within a designated *historical district* as described in Section 143.0220; and
 - (2) Landscape review in accordance with Section 142.0402 for the following:
 - (A) New parking and *vehicular use area* for four or more vehicles including access to the spaces; and

(B) Additions or modifications to existing parking and *vehicular use area* that would increase the number of parking spaces by four or more vehicle spaces.

(b) The City Manager may waive the requirement for a Minor Construction Permit as provided in the Land Development Manual.

§129.0910 How to Apply for a Minor Construction Permit

An application for a Minor Construction Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Minor Construction Permits are listed in the Land Development Manual.

§129.0920 Decision Process for Minor Construction Permits

A decision on an application for a Minor Construction Permit shall be made in accordance with Process One. A Minor Construction Permit shall be approved if the proposed work is consistent with the Municipal Code, applicable *development* standards, and any *development permits* approved for that project.

§129.0930 Issuance of a Minor Construction Permit

- (a) A Minor Construction Permit may be issued after the construction plans have been approved by the single discipline reviewer and the prescribed fees have been paid.
- (b) A Minor Construction Permit shall not be issued for a *development* that requires a *development permit* until the *development permit* has been issued.
- (c) The *applicant* shall not begin any work, construction, or use that will be authorized by a Minor Construction Permit until the required permit has been issued.

§129.0940 Expiration of a Minor Construction Permit

- (a) A Minor Construction Permit shall expire by limitation and become void 24 months after the date of permit issuance, unless the permittee can demonstrate that the complexity or size of the project makes completion within 24 months unreasonable.
- (b) If the work authorized by a Minor Construction Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued.

§129.0950 Construction Change to a Minor Construction Permit

- (a) A proposed construction change to a Minor Construction Permit must be approved before the commencement of the construction change. A decision on a construction change shall be made in accordance with Section 129.0920.

(b) A proposed construction change to a Minor Construction Permit that was approved in conjunction with another permit or map may be approved only if the proposed change is in *substantial conformance* with the other approved permit or map. If the proposed change is not in *substantial conformance* with the other approved permit or map, the other permit or map must be amended before consideration of the construction change.

§129.0960 Inspection of Work

(a) All work that is authorized by a Minor Construction Permit shall be inspected in accordance with Section 129.0111 and the inspection requirements of the Land Development Manual.

(b) The permittee shall notify the City Manager when the work is ready for final inspection.

§142.0402 When Landscape Regulations Apply

(a) through (b) [No change]

Table 142-04 Landscape Regulations Applicability

Type of Development Proposal	Applicable Regulations	Required Permit Type/Decision Process
1. New structures that equal or exceed the gross floor area shown (Column B), and are proposing the type of development shown (Column C) through 2. Additions to structures or additional structures on developed properties that exceed the gross floor area shown or that increase the gross floor area by the percent shown (Column B), and are proposing the type of development shown (Column C) [No change]		
3. New permanent parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones	142.0403, 142.0406- 142.0409, and 142.0413	Building Construction Permit/ Process One
4. New temporary parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones	142.0403, 142.0408, 142.0409, and 142.0413	Building Construction Permit/ Process One
5. Additions or modifications to existing permanent or temporary parking and vehicular use area that increase the number of parking spaces by four or more	142.0403, 142.0408, 142.0409, 142.0410(b), and 142.0413	Building Construction Permit/ Process One
6. Single dwelling unit residential use projects proposing new private or public rights-of-way	142.0403, 142.0409, and 142.0413	Building Construction Permit/ Process One
7. Projects proposing slopes with gradients steeper than 4:1 (4 horizontal feet to 1 vertical foot) that are 5 feet or greater in height	142.0403, 142.0411, and 142.0413	Building Construction Permit/ Process One

8.	Projects creating disturbed areas of bare soils, or projects with existing disturbed areas [No change]
9.	All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure. [See Issue #43]
10.	Publicly or privately owned <i>premises</i> , that are within 100 feet of a <i>structure</i> ,-and contain native or naturalized vegetation. Through
11.	New <i>structures</i> , additions to <i>structures</i> , or subdivisions that create <i>lots</i> where new <i>structures</i> could be located on <i>premises</i> adjacent to native or naturalized vegetation [No change]
12.	New Trees or shrubs planted in the <i>public right-of-way</i> [See Issue #43]
13.	<i>Condominium Conversions</i> [No change]

1 [No change]

Issue #9: Expiration of Tentative Maps/Map Waivers and Associated Development Permits

§125.0121 Decision Process for Map Waivers

A decision on an application for a Map Waiver shall be made in accordance with Process Three. If the request is approved, the City Manager shall record a Certificate of Compliance or other suitable instrument as evidence of such approval in the office of the County Recorder. Extension of Time requests for a Map Waiver shall be processed in accordance with Section 125.0461.

§125.01212 How to Apply for a Map Waiver

- (a) An applicant shall apply for a Map Waiver in accordance with Section 112.0102. The content and form for the submittal shall be as specified by the Land Development Manual and the Subdivision Map Act.
- (b) If the applicant fails to submit or resubmit requested materials, information, fees, or deposits, the application file may be closed after 90 calendar days from the date the application was deemed complete or from the date of the last written request by the City.

§125.01242 Decision Process for Map Waivers

[No change]

§125.01223 Findings for Map Waivers

[No change]

§125.0420 How to Apply for a Tentative Map

- (a) An *applicant* shall apply for a *tentative map* in accordance with Section 112.0102. The content and form for *tentative maps* and the associated data submitted shall be as specified by the Land Development Manual and the *Subdivision Map Act*.
- (b) **If the applicant fails to submit or resubmit requested materials, information, fees, or deposits, the application file may be closed after 90 calendar days from the date the application was deemed complete or from the date of the last written request by the City.**

§125.0461 Extension of Time for a Tentative Map or Map Waiver

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

- (a) The expiration date of a *tentative map* or map waiver may be extended one or more times if the extensions do not exceed a total of 60 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 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 a decision on the Extension of Time has been made **the application is approved, conditionally approved, or denied.**
- (2) Decision Process. An application for Extension of Time for a *tentative map* shall be approved, conditionally approved, or denied in accordance with ~~Process Three for tentative parcel maps or with Process Four for tentative final maps~~ **Process Two.**
- (3) Findings. The decision maker may conditionally approve or deny a request for extension of time if the decision maker makes one of the following findings:
- (A) The failure to conditionally approve **condition the extension of time** or deny the request would place the residents of the *subdivision* or the immediate community in a condition dangerous to their health or safety; or
- (B) [No Change]
- (b) [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 extensions do not exceed a total of 36 months beyond the expiration of the initial utilization period. **Where 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 expiration of the *tentative map*.

(b) through (h) [No change]

Issue #10: Tolling of Tentative Maps and Development Permits

§125.0150 Tolling of Tentative Maps and Associated Development Permits

- (a) Pursuant to *Subdivision Map Act* Section 66452.6(c), an applicant may request a tolling (temporary stoppage) of the process for up to 5 years while a lawsuit involving the approval or conditional approval of a *tentative map* is or was pending in a court of competent jurisdiction. Associated *development permits* may also be tolled in accordance with Sections 125.0150 and 126.0115.
- (b) A request to toll the process must be submitted prior to expiration of the *tentative map* and associated *development permits*.
- (c) Decisions regarding a request to toll the process for *tentative maps* and associated *development permits* shall be made in accordance with Process One.
- (d) A request to toll the process for a *tentative map* and associated *development permits* shall be granted within 40 days of the date of application if it can be demonstrated to the satisfaction of the City Manager that:
- (1) A lawsuit was filed that is related to the processing of an approved or conditionally approved *tentative map* and associated *development permits*; and
 - (2) Tolling of the process for up to 5 years during the lawsuit would allow time for the applicant to address associated court orders or procedures related to processing of the *tentative map* and associated *development permits*.
- (e) Upon resolution of the lawsuit, the applicant shall contact the City Manager to confirm the adjusted expiration dates for the approved or conditionally approved *tentative map* and associated *development permits* as applicable. Adjusted expiration dates shall account for credited time for tolling during the lawsuit as follows:
- (1) The credited time for the tolling period shall be limited to the time period between the date the petition or complaint in the lawsuit was filed and the date the lawsuit was officially resolved.
 - (2) The credited time for the tolling period shall not exceed 5 years.

§126.0115 Tolling of a Development Permit

- (a) An applicant may request a tolling (temporary stoppage) of the process for up to 5 years while a lawsuit involving the approval or conditional approval of a *development permit* is or was pending in a court of competent jurisdiction.
- (b) A request to toll the process must be submitted prior to expiration of the *development permit*.
- (c) Decisions regarding a request to toll the process for a *development permit* shall be made in accordance with Process One.
- (d) A request to toll the process for a *development permit* shall be granted within 40 days of the date of application if it can be demonstrated to the satisfaction of the City Manager that:
 - (1) A lawsuit was filed that is related to the processing of an approved or conditionally approved *development permit*; and
 - (2) Tolling of the process for up to 5 years during the lawsuit would allow time for the applicant to address associated court orders or procedures related to processing of the *development permit*.
- (e) Upon resolution of the lawsuit, the applicant shall contact the City Manager to confirm the adjusted expiration date for the approved or conditionally approved *development permit*. The adjusted expiration date shall account for credited time for tolling during the lawsuit as follows:
 - (1) The credited time for the tolling period shall be limited to the time period between the date the petition or complaint in the lawsuit was filed and the date the lawsuit was officially resolved.
 - (2) The credited time for the tolling period shall not exceed 5 years.

Issue #11: Discretionary Permit Findings

§125.0440 Findings for a Tentative Map

A *tentative map* may be approved or conditionally approved only if the decision maker makes the following *findings* in accordance with the *Subdivision Map Act* and the Land Development Code:

- (a) The proposed *subdivision* and its design or improvement are consistent with the policies, goals, and objectives of the applicable *land use plan*;
- (b) The proposed *subdivision* complies with the applicable zoning and development regulations of the Land Development Code **including any allowable deviations pursuant to the Land Development Code**;
- (c) through (h) [No change]

§126.0205 Findings for Neighborhood Use Permit Approval

A Neighborhood Use Permit may be approved or conditionally approved only if the decision maker makes the following *findings*:

- (a) The proposed *development* will not adversely affect the applicable *land use plan*;
- (b) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
- (c) The proposed *development* will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

§126.0305 Findings for Conditional Use Permit Approval

A Conditional Use Permit may be approved or conditionally approved only if the decision maker makes the following *findings*:

- (a) The proposed *development* will not adversely affect the applicable *land use plan*;
- (b) The proposed *development* will not be detrimental to the public health, safety, and welfare;
- (c) The proposed *development* will comply ~~to the maximum extent feasible~~ with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code; and
- (d) The proposed use is appropriate at the proposed location.

§126.0404 Findings for Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0404(a) and the supplemental *findings* in Section 126.0404(b) through (f) that are applicable to the proposed *development* as specified in this section.

- (a) Findings for all Neighborhood Development Permits
 - (1) The proposed *development* will not adversely affect the applicable *land use plan*;
 - (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
 - (3) The proposed *development* will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

§126.0504 Findings for Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0504(a) and the supplemental *findings* in Section 126.0504(b) through (n) that are applicable to the proposed *development* as specified in this section.

- (a) Findings for all Site Development Permits
 - (1) The proposed *development* will not adversely affect the applicable *land use plan*;
 - (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
 - (3) The proposed *development* will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

§126.0604 Findings for Planned Development Approval

A Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0604(a) and the supplemental *findings* in Section 126.0604(b) that are applicable to the proposed *development* as specified in this section.

- (a) Findings for all Planned Development Permits
 - (1) The proposed *development* will not adversely affect the applicable *land use plan*;
 - (2) The proposed *development* will not be detrimental to the public health, safety, and welfare; and
 - (3) The proposed *development* will comply with the regulations of the Land Development Code including;
 - ~~(4) The proposed *development*, when considered as a whole, will be beneficial to the community; and~~
 - (5) ~~Any~~ proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.
- (b) [No Change]

Issue #12: Modification of Development Permit Expiration Dates**§126.0113 Amendments to a Development Permit**

(a) through (b) [No change]

(c) An application for an amendment to a *development permit* shall be acted upon in accordance with same process as would a new application for the same permit. In cases where a *development permit* includes existing land uses that would not be permitted to establish as new uses in accordance with the underlying base zone, the amendment application shall be acted upon in accordance with the same process as the original *development permit*. The application is subject to environmental review and will be evaluated in accordance with the State California Environmental Quality Act (CEQA) Guidelines, Sections 15162-215164. The decision maker may revise existing conditions or impose new conditions.

(d) An amendment to an existing *development permit* does not affect the original expiration date of the permit, unless specifically requested. In such cases, the application must be *deemed complete* prior to the *development permit* expiration date and the *development permit* would automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted.

(e) [No change]

Issue #13: Pet Care Related Uses**§126.0203 When a Neighborhood Use Permit Is Required**

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

Automobile service stations through Bed and breakfast establishments [No Change]

Boarding Kennels/Pet Day Care Facilities

Community Gardens [No Change]

~~Community identification signs~~ [See Issue #14]

~~Comprehensive Sign Plans~~ [See Issue #14]

Eating and drinking establishments through Employee Housing [No change.]

~~Guest quarters~~ [See Issue #51]

Home occupations [No change.]

Neighborhood Identification Signs [See Issue #14]

~~Outpatient medical clinics~~ [See Issue #51]

Parking facilities as a primary use through Pushcarts [No change.]

~~Reallocation of sign area allowance~~ [See Issue #14]

Recycling facilities through Theater marquees [No change.]

Urgent Care Facilities [See Issue #51]

Veterinary Clinics and Animal Hospitals

Wireless communication facilities [No change.]

(b) [No Change]

§126.0303 When a Conditional Use Permit Is Required

An application for the following types of uses in certain zones may require a Conditional Use Permit. To determine whether a Conditional Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13. The decision process is described in Section 126.0304.

(a) Conditional Use Permits Decided by Process Three

- Agricultural equipment repair shops through Bed and breakfast establishments [No change]
- Boarding kennels**
- Child Care Centers through Impound storage yards [No change]
- ~~Instructional studios~~ [See Issue #15]
- Major transmission, relay, or communication switching station through Swap meets and other large outdoor retail facilities [No change]
- Veterinary clinics and animal hospitals**
- Wireless communication facilities* [No change]

(b) through (c) [No change]

Insert Chapter 13 Use Tables for Open Space and Agricultural Zones

§131.0522 Use Regulations Table for Commercial Zones

**Table 131-05B
 Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
		CN ⁽¹⁾⁻			CR-		CO-		CV-		CP-
	1st & 2nd >>	CN ⁽¹⁾⁻			CR-		CO-		CV-		CP-
	3rd >>	1-			1-	2-	1-		1-		
	4th >>	1	2	3	1	1	1	2	1	2	1
Boarding Kennels/Pet Day Care Facilities		-	<u>L</u>		<u>EL</u>	<u>EL</u>	<u>EN</u>	<u>EN</u> ⁽¹⁰⁾			-
Veterinary Clinics & Animal Hospitals		-	<u>L</u>		<u>EL</u>	<u>EL</u>	<u>EN</u>				-

Use Categories/Subcategories	Zone Designator	Zones
------------------------------	-----------------	-------

[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	CC-																
	3rd >>	1-			2-			3-			4-			5-				
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Boarding Kennels/ <u>Pet Day Care Facilities</u>		eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL
Veterinary Clinics & Animal Hospitals		eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL	eL

§131.0622 Use Regulations Table for Industrial Zones

Table 131-06B
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories	Zone Designator	Zones								
		IP-			IL-			IH-		IS-
[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >	IP-			IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-	
	4th >>	1	1	1	1	1	1	1	1	
Boarding Kennels/ <u>Pet Day Care Facilities</u>		-	eN	eN	eL	eL	eN	eN	eN	
Veterinary Clinics & Animal Hospitals		-	eN	eN	eL	eL	eN	eN	eN	

§141.0604 Boarding Kennels/Pet Day Care Facilities

Boarding kennels and pet day care facilities for the boarding, training and care of household pets 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 Section 141.0604(a) and (b). Boarding kennels and pet day care facilities may be permitted with a Conditional Neighborhood Use Permit decided in accordance with Process Three Two in the zones indicated with a “eN” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0604(b) (a) and (c).

(a) General Rules

- (1) Boarding kennels and pet day care facilities shall be operated and maintained in accordance with the health and sanitation regulations for health regulated businesses in Chapter 4, Article 2, Division 7 (Animals and Poultry).
- (2) Boarding kennels and pet day care facilities shall be maintained in a sanitary condition to minimize the impacts of odors on surrounding development.

(b) Limited Use Regulations

- (1) ~~Maintaining, raising, feeding, or keeping of 6 or more domestic animals requires a premises of at least 5 acres. All boarding, training, and pet care activities shall be conducted within an enclosed building. Exterior boarding, training, and exercise facilities are not permitted as a limited use.~~
- (2) Kennels and associated *structures* shall not be located any closer than 50 feet to any *property line*, unless the structures are sound-proofed.
- (3) Off-street parking shall be provided at a rate of 2.5 spaces for every 1,000 square feet of floor area.
- (4) Boarding kennels and pet day care facilities shall not be located on a premises that is identified as Prime Industrial Land.
- (5) Deviations from Section 146.0604(b) may be permitted with a Neighborhood Use Permit decided in accordance with Process Two, with the exception of outdoor facilities in CN zones which are not permitted.

~~(b)~~(c) Conditional Neighborhood Use Permit Regulations

- (1) Noise emanating from the facility shall be kept at minimum levels through the following methods:
 - (A) Limitations on the number of animals permitted in exterior areas at any one time;
 - (B) Limitations on the hours that animals are permitted in exterior areas;
 - (C) Locating exterior boarding and exercise areas on those portions of the site where noise impacts on surrounding *development* will be minimized;
 - (D) The use of walls or *fences* to minimize noise impacts to surrounding *development*; and
 - (E) Sound-proofing of interior kennel areas.
- (2) Exterior boarding, training, and exercise facilities shall be *screened* from adjacent *development* by a 6-foot *solid fence* or wall.
- ~~(3) The facility shall be maintained in a sanitary condition to minimize the impacts of odors on surrounding development.~~
- ~~(4)~~ (3) Off-street parking shall be provided in accordance with Table ~~142.05D~~ 142-05D.

§141.0625 Veterinary Clinics and Animal Hospitals

Veterinary clinics and animal hospitals are permitted as a limited use in the zones indicated with an "L" and may be permitted with a Conditional Neighborhood Use Permit decided in accordance with Process Three Two in the zones indicated with a "CN"-in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) General Rules

- (1) Veterinary clinics and animal hospitals are not permitted in agricultural zones in the future urbanizing area, except as an accessory use within a zoological park, or within floodplains located in the Coastal Overlay Zone.
- (2) Veterinary clinics and animal hospitals shall be operated and maintained in accordance with the health and sanitation regulations for health regulated businesses in Chapter 4, Article 2, Division 7 (Animals and Poultry).
- (3) Veterinary clinics and animal hospitals shall be maintained in a sanitary condition to minimize the impacts of odors on surrounding development.

(b) Limited Use Regulations

- (1) Veterinary clinics and animal hospitals shall not be located on a premises that is identified as Prime Industrial Land.
- (2) Outdoor exercise areas are not permitted as a limited use, except as an accessory use within a zoological park.
- (3) Off-street parking shall be provided in accordance with Table 142-05D.
- (4) Deviations from Section 146.0625(a) may be permitted with a Neighborhood Use Permit decided in accordance with Process Two.

(c) Neighborhood Use Permit Regulations

- (b1) Noise resulting from outdoor exercise or treatment areas shall be minimized. Noise emanating from the facility shall be kept at minimum levels through the following methods:
 - (A) Limitations on the number of animals permitted in exterior areas at any one time;
 - (B) Limitations on the hours that animals are permitted in exterior areas;
 - (C) Locating exterior boarding and exercise areas on those portions of the site where noise impacts on surrounding development will be minimized;

(D) The use of walls or fences to minimize noise impacts to surrounding development; and

(E) Sound-proofing of interior kennel areas.

- (e) The facility shall be maintained in a sanitary condition to minimize impact of odors on surrounding development.

(2) Exterior boarding, training, and exercise facilities shall be screened from adjacent development by a 6-foot solid fence or wall.

Issue #14: Discretionary Sign Permits

§126.0203 When a Neighborhood Use Permit Is Required

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

Automobile service stations through Bed and breakfast establishments [No Change]

Boarding Kennels/Pet Day Care Facilities [See Issue #13]

Community Gardens [No Change]

Community identification signs

Comprehensive Sign Plans

Eating and drinking establishments through Employee Housing [No change.]

Guest quarters [See Issue #53]

Home occupations [No change.]

Neighborhood Identification Signs

Outpatient medical clinics [See Issue #53]

Parking facilities as a primary use through Pushcarts [No change.]

Reallocation of sign area allowance

Recycling facilities through Theater marquees [No change.]

Urgent Care Facilities [See Issue #53]

Wireless communication facilities [No change.]

- (b) [No Change]

§141.1105 Reallocation of Sign Area Allowance Comprehensive Sign Plans

Reallocation of sign area allowance Comprehensive sign plans may be permitted with a Neighborhood Use Permit in the zones indicated with an "N" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Comprehensive sign plans may be requested to modify applicable sign requirements if the proposed signs, as a whole, are in conformance with the intent of the sign regulations and if the exceptions result in an improved relationship among the signs and buildings facades on the premises.

§142.1205 When Sign Regulations Apply

This division applies to all *signs* within the City unless otherwise specifically regulated. This division applies to all construction within the City whether or not a permit or other approval is required. In addition, discretionary permits may also contain conditions that regulate *signs* on certain properties. Table 142-12A shows the applicable regulations and type of permit required by this division, if any, for specific types of *signs*.

**Table 142-12A
 Sign Regulations Applicability**

Type of Sign or Development Proposal	Applicable Sections	Required Permit Type/Decision Process
Changing the copy of a <i>sign</i> and <i>sign</i> maintenance that does not involve structural and electrical changes through Any proposal to erect a <i>ground sign</i> [No change.]		
Any proposal to erect a revolving <i>sign</i>	142.1210, 142.1220, 142.1240, and 142.1260	Sign Permit/Process One May require a Neighborhood Use Permit/Process Two
Any proposal to erect a <i>sign</i> with automatic changing copy	142.1210 and 142.1260	Neighborhood Use Permit/Process Two
Any proposal to erect a community neighborhood identification <i>sign</i>	142.1210 and 142.1260	Neighborhood Use Permit/Process Two
Any proposal to erect a secondary type of <i>sign</i>	142.1210, 142.1245, and 142.1255	Sign Permit may be required
Any proposal to erect a <i>sign</i> in a <i>single dwelling unit</i> residential zone	142.1210 and 142.1265	Sign Permit may be required
Any proposal to erect a <i>sign</i> in a <i>multiple dwelling unit</i> residential zone	142.1210 and 142.1270	Sign Permit may be required
Any proposal to erect a <i>sign</i> in an agricultural zone	142.1210 and 142.1275	Sign Permit may be required
Any proposal to erect a <i>sign</i> in an open space zone	142.1210 and 142.1280	Sign Permit may be required

§142.1215 Types of Signs

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

(c) *Signs Permitted by Higher Process*

The following are the types of *signs* that may be permitted with a Neighborhood Use Permit in accordance with Chapter 12, Article 6, Division 2.

(1) Through (3) [No change.]

(4) **Community Neighborhood** identification *signs*

§142.1260 Signs Permitted by Higher Process

The following *signs* may be permitted with a Neighborhood Use Permit in accordance with Chapter 12, Article 6, Division 2 and Chapter 14, Article 1, Division 11.

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

(d) **Community Neighborhood** identification *signs*, and

(e) ~~Reallocation of sign area allowance~~ **Comprehensive Sign Plans**.

§151.0104 Uses Permitted in the Planned Districts

(a) through (c) [No change]

(d) Conditional Use Permits/Process Three

Except as otherwise provided in the planned district, the following uses may be permitted with a Conditional Use Permit decided in accordance with Process Three, subject to the location restrictions and the Land Development Code section specified for each use.

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

(8) ~~Community~~ **Neighborhood** identification signs, subject to Land Development Code Section 141.1104

Issue #15: Instructional Studios

§126.0303 When a Conditional Use Permit Is Required

An application for the following types of uses in certain zones may require a Conditional Use Permit. To determine whether a Conditional Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13. The decision process is described in Section 126.0304.

(a) Conditional Use Permits Decided by Process Three

Agricultural equipment repair shops through Bed and breakfast establishments [No change]

~~Boarding kennels~~ [See Issue #13]

Child Care Centers through Impound storage yards [No change]

Instructional studios

Major transmission, relay, or communication switching station through Swap meets and other large outdoor retail facilities [No change]

~~Veterinary clinics and hospitals~~ [See Issue #13]

Wireless communication facilities [No change]

(b) through (c) [No change]

§131.0112 Descriptions of Use Categories and Subcategories

(a) [No change]

(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 (E) [No change]

(F) Instructional Studios - Uses that provide a place where skills including dance, art, and martial arts are taught to individuals or groups. Instructional studios do not include educational facilities.

~~(F)~~(G) Maintenance and Repair — Uses that provide maintenance, cleaning and repair services for consumer goods.

~~(G)~~(H) Off-Site Services — Uses that provide for deliveries of a wide variety of products and that provide services that are used at a location separate from the business providing the delivery or service.

~~(H)~~(I) Personal Services — Uses that provide a variety of services associated with personal grooming and the maintenance of health and well-being.

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

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

~~(K)~~(L) 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.)

(7) through (11) [No change]

(b) [No change]

§131.0222 Use Regulations Table for Open Space Zones

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

Legend for Table 131-02B [No change]

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

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
		OP-	OC-	OR ⁽¹⁾ -	OF ⁽¹²⁾ -	
	1st & 2nd >>					
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
Open Space through Retail Sales [No change]						
Commercial Services						
Instructional Studios		-	-	-	-	-
Separately Regulated Commercial Services Uses						
Instructional Studios						
Offices through Signs [No change]						

§131.0322 Use Regulations Table for Agricultural Zones

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

Legend for Table 131-03B [No change]

**Table 131-03B
 Use Regulations Table of Agricultural Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and	Zone Designator	Zones	

descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through Retail Sales [No change]					
Commercial Services					
Instructional Studios					
-					
Separately Regulated Commercial Services Uses					
Instructional Studios					
Offices through Signs [No change]					

§131.0422 Use Regulations Table for Residential Zones

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

Legend for Table 131-04B [No change]

Table 131-04B
Use Regulations Table of Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
		1st & 2nd >>	RM-											
		3rd >>	1-			2-			3-			4-		5-
4th >>	1	2	3	4	5	6	7	8	9	10	11	12		
Open Space through Retail Sales [No change]														
Commercial Services														
Instructional Studios														
-														
Separately Regulated Commercial Services Uses														
Instructional Studios														
-														

Comment [a3j2]: Should this use be allowed in RM-3 zones? For comparison, Personal services are permitted by right in RM 3, 4, and 5 zones. Educational facilities (K-12) and churches are permitted by right in RM-1, 2, 3 and 4 zones.

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
Offices through Signs [No change]														

§131.0522 Use Regulations Table of Commercial Zones

Table 131-05B
 Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones										
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-	
	3rd >>	1-			1-	2-	1-	1-	1-	1-	1-	
	4th >>	1	2	3	1	1	1	2	1	2	1	
Instructional Studios			P		P	P	P	P	P ^(1,2)	-		
Separately Regulated Commercial Services Uses												
Instructional Studios			P		P	P	C	C		-		

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																
	1st & 2nd >>	CC-																
	3rd >>	1-			2-			3-			4-			5-				
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Instructional Studios			P		P		P		P		P		P		P		P	
Separately Regulated Commercial Services Uses																		
Instructional Studios			C		C		C		C		C		C		C		C	

Footnotes to Table 131-05B

Footnotes 1 through 11 [No change]

¹² Within the Coastal Overlay Zone, instructional studios are not permitted on the ground floor in the CV-1-1 or CV-1-2 zone.

¹³ [See Issue #24 Art Galleries]

¹⁴ [See Issue #25 Specialized Massage]

§141.0612 — Instructional Studios

~~Instructional studios are establishments in which skills including dance, art, and martial arts are taught to individuals or groups. Instructional studios do not include educational facilities.~~

~~Instructional studios 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 number of students using the studio at any one time may be limited based on the following:
 - ~~(1) — The intensity of existing surrounding uses that are allowed in the zone; and~~
 - ~~(2) — The amount of parking available on the premises.~~~~
- ~~(b) — The hours of operation of the studio may be limited.~~
- ~~(c) — Within the Coastal Overlay Zone, instructional studios are not permitted on the ground floor in the CV 1 1 or CV 1 2 zone.~~

Issue #16: NDP Requirement for Large Retail

§126.0402 When a Neighborhood Development Permit Is Required

- (a) through (j) [No Change]
- (k) A Neighborhood Development Permit is required for *development of a large retail establishment of at least 50,000 or more square feet gross floor area, but less than 100,000 square feet gross floor area* in all commercial and industrial zones, and in all planned districts, except the Centre City Planned District.

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Table 143-03A
Supplemental Neighborhood Development Permit or Site Development Permit
Regulations Applicability

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Affordable/In-Fill Housing and Sustainable Building Projects with Deviations	143.0910, 143.0915, 143.0920	SDP/Process Four
<i>Development of a large retail establishment of at least 50,000 or more square feet gross floor area, but less than 100,000 square feet gross floor area</i> in all commercial and industrial zones, and in all planned districts, except the Centre City Planned District	<u>143.0303, 143.0305, 143.0355, 143.0375</u>	<u>NDP/Process Two</u>
<i>Development of a large retail establishment of 100,000 or more square feet gross floor area</i> in all commercial and industrial zones, and in all planned districts	<u>143.0303, 143.0305, 143.0355, 143.0375</u>	<u>SDP/Process Four</u>
Site Containing <i>Environmentally Sensitive Lands</i> through Clairemont Mesa Height Limit Overlay Zone [No change.]		

Issue #17: Special Flood Hazard Areas

§126.0502 When a Site Development Permit is Required

- (a) A Site Development Permit decided in accordance with Process Three is required where *environmentally sensitive lands* are present for the following types of development.
- (1) City public works projects on a *premises* containing *environmentally sensitive lands*, as described in Section 143.0110.

- (2) *Single dwelling unit development* that involves any of the following:
- (A) *Development on a premises containing sensitive coastal bluffs or coastal beaches*, as described in Section 143.0110;
 - (B) *Development on lots greater than 15,000 square feet containing sensitive biological resources; or steep hillsides; or Special Flood Hazard Areas* as described in Section 143.0110; **or**
 - (C) *Development on lots less than or equal to 15,000 square feet that are joined in ownership to a contiguous lot so that the total area of contiguous ownership exceeds 15,000 square feet where sensitive biological resources; or steep hillsides; or floodplains* are present, as described in Section 143.0110.

(3) through (5) [No change]

(b) through (e) [No change]

§126.0504 Findings for Site Development Permit Approval

(a) through (c) [No change]

- (d) Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested from the *Special Flood Hazard Area* regulations as specified in Section 143.0150(b) may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a) and the supplemental *findings* in Sections 126.0504(b) and 126.0504(c):

- (1) The City Engineer has determined that the proposed *development*, within any designated *floodway* will not result in an increase in *flood* levels during the base *flood* discharge **except as allowed under Code of Federal Regulations Title 44, Chapter 1, Part 60.3(13)**;
- (2) The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a *public nuisance*.

§143.0110 When Environmentally Sensitive Lands Regulations Apply

(a) through (b) [No change]

- (c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:

(1) and (2) [See Issue #21 ESL]

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

(9) *Development in a Special Flood Hazard Area that is permitted in accordance with the underlying base zone and complies with the regulations in Sections 143.0145 and 143.0146.*

§143.0146 Supplemental Regulations for Special Flood Hazard Areas

All proposed *development* within a *Special Flood Hazard Area* is subject to the following requirements and all other applicable requirements and regulations of FEMA.

(a) *Development* and Permit Review

(1) through (6) [No change]

(7) In all *floodways*, any *encroachment*, including *fill*, new construction, significant modifications, and other *development* is prohibited unless *certification* by a registered professional engineer is provided demonstrating that *encroachments* will not result in any increase in *flood* levels during the occurrence of the *base flood* discharge *except as allowed under Code of Federal Regulations Title 44, Chapter 1, Part 60.3(13).*

(b) through (f) [No change]

Issue #18: Planned Development Permits

§126.0602 When a Planned Development Permit May Be Requested

(a) The following types of *development* may be requested with a Planned Development Permit decided in accordance with Process Three.

(1) ~~Residential *development* within the areas described in this section when *Development in accordance with Section 143.0465* where the *applicable* community plan recommends a Planned Development Permit *be processed in conjunction with* if another requested *discretionary action is also requested*, as described in Section 143.0402; *or*~~

~~(A) Within the Carmel Mountain Ranch Community Plan area, residential *development* within certain areas as identified in the community plan;~~

~~(B) Within the Midway Pacific Highway Corridor Community Plan area, mixed use residential and commercial *development*;~~

~~(C) Within the Mira Mesa Community Plan area, residential *development* that includes a rezone or *subdivision*;~~

~~(D) Within the Miramar Ranch North Community Plan area, all proposed residential *development*;~~

~~(E) Within the Rancho Penasquitos Community Plan area, *subdivisions* creating 5,000 square foot *lots* consistent with the low *density* residential land use category;~~

~~(F) Within the Sabre Springs Community Plan area, residential *development* on those parcels identified in Section 4.4 of the community plan;~~

~~(G) Within the Scripps Miramar Ranch Community Plan area, residential *development* in Areas C or E as identified in the community plan; and~~

~~(H) Within the Torrey Pines Community Plan area, all new *multiple dwelling unit development*.~~

(2) — Commercial *development* within the areas listed below when the community plan recommends a Planned Development Permit in conjunction with another requested discretionary action, as described in Section 143.0402:

(A) Within the Carmel Mountain Ranch Community Plan area, commercial *development* located within the area designated for planned commercial *development* on Figure 35 of the community plan;

(B) Within the Kearny Mesa Community Plan area, any visitor accommodation facilities;

(C) Within the Midway Pacific Highway Corridor Community Plan area, all commercial and residential mixed-use *development*;

(D) Within the Mira Mesa Community Plan area, commercial *development* that includes a rezone or *subdivision*;

(E) Within the Miramar Ranch North Community Plan area, all commercial *development*;

(F) Within the Navajo Community Plan area, commercial *development* that includes a rezone or *subdivision*;

(G) Within the Otay Mesa Nestor Community Plan area, commercial *development* of property identified by the Plan's Commercial Land Use Map as requiring discretionary review;

~~(H) Within the Peninsula Community Plan, commercial development on the block bounded by Lowell Street, Keats Street, Rosecrans Street, and Locust Street; and~~

~~(I) Within the Rancho Penasquitos Community Plan area, commercial development located in the Towne Centre.~~

~~(3) Industrial development within the areas listed below when the community plan recommends a Planned Development Permit in conjunction with another requested discretionary action, as described in Section 143.0402:~~

~~(A) Within the Kearny Mesa Community Plan area, industrial development in the area known as Allred-Collins East;~~

~~(B) Within the Mira Mesa Community Plan area, industrial development that includes a rezone or subdivision;~~

~~(C) Within the Navajo Community Plan area, industrial development that includes a rezone or subdivision;~~

~~(D) Within the Sabre Springs Community Plan area, development on parcels 3 and 9 of the Sabre Springs Industrial Park;~~

~~(E) Within the Scripps Miramar Ranch Community Plan area, development of a 3.7-acre storage facility as identified in the community plan and all development in the Scripps Business Park; and~~

~~(F) Within the Torrey Pines Community Plan area, development in the Carrol Canyon Corridor as identified in the community plan.~~

~~(2) Development in accordance with Section 143.0403(a) that complies with the applicable land use plan, but contains uses that are not permitted in the underlying base zone.~~

Comment [a3]3]: Should this be Process 3 or 4?

(b) The following types of development may be requested with a Planned Development Permit to be decided in accordance with Process Four.

(1) Development that does not comply with all base zone regulations or all development regulations except as permitted in accordance with Section 126.0602(a)(2), or that proposes to exceed limited deviations allowed by the regulations in Chapter 14, as described in Section 143.0402, 143.0403; or

(2) Rural Cluster development in the OR and AR zones, as described in Section 143.0402.

~~(3) Developments involving a Planned Development Permit within RS zones in Urbanized Communities as described in Section 143.0402.~~

(c) [No change.]

§143.0402 When Planned Development Permit Regulations Apply
Add Table 143-04A

Issue #19: Supplemental Findings for Coastal Development Permit

§126.0708 Findings for Coastal Development Permit Approval

An application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*.

(a) [no change]

(b) Supplemental *Findings* - **Deviations to** Environmentally Sensitive Lands Within the Coastal Overlay Zone

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

A Coastal Development Permit, or a Site Development Permit in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* **in Section 126.0708(b)** in addition to the *findings* in Section 126.0708(a), ~~(b), (c) and (d)~~ and the supplemental *findings* in Section 126.0504 (b):

The decision maker shall hold a public hearing on any application on a Coastal Development Permit that includes a deviation from the Environmentally Sensitive Lands Regulations in the Coastal Overlay Zone.

Such hearing shall address the economically viable use determination. Prior to approving a Coastal Development Permit for development within the Coastal Overlay Zone that requires a deviation from the Environmentally Sensitive Lands Regulations, the decision maker shall make all of the following *findings*:

(1) through (5) [no change]

The *findings* adopted by the decision making authority shall identify the evidence supporting the *findings*.

Issue #20: Bonds and Expiration Dates for Right of Way Permits and Grading Permits

§129.0119 Bond Required for Construction Permit for Grading or Public Improvements

- (a) Persons performing work under Public Right-of-Way or Grading Permits issued in accordance with this article shall furnish a bond in accordance with the following provisions:

(1) though (5) [No change]

- (6) The amount of the bond covering a specific project shall be approved by the City Manager based on the amount of the estimate of the cost of work and the following schedule:

(A) through (E) [No change]

(F) Shoring Restoration: 100 percent of the estimated cost of restoring site to the original condition, together with removal of all tie backs and shoring.

(b) through (f) [No change]

§129.0218 Expiration of a Building Permit

(a) [No change]

- (b) If the building or work authorized by a Building Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued or an extension of time is approved in accordance with Section 129.0219. All Electrical, ~~Plumbing, or Plumbing~~/Mechanical, Public Right-of-Way, and Grading Permits associated with a Building Permit shall expire concurrently with the Building Permit.

§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.

§129.0650 Expiration of a Grading Permit

- (a) A Grading Permit shall expire by limitation and become void 24 months after the date of permit issuance, unless an exception is granted in one of the following ways:
- (1) At the time of permit issuance, the City Manager may approve an expiration date exceeding 24 months if the permittee can demonstrate that the complexity or size of the project makes completion of the project within 24 months unreasonable. The expiration date for the Grading Permit shall be specified on the permit; or

(2) A Grading Permit issued as part of a *subdivision* improvement agreement shall expire in accordance with the terms of that agreement.

(3) A Grading Permit associated with a valid Building Permit shall expire concurrently with the Building Permit.

(b) If the *grading* or work authorized by a Grading Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued.

§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.

§129.0750 Expiration of a Public Right-of-Way Permit

(a) A Public Right-of-Way Permit shall expire by limitation and become void 24 months after the date of permit issuance, unless an exception is granted in one of the following ways:

(1) At the time of permit issuance, the City Manager may approve an expiration date exceeding 24 months if the permittee can demonstrate that the complexity or size of the project makes completion of the project within 24 months unreasonable. The expiration date for the Public Right-of-Way Permit shall be specified on the permit; or

(2) A Public Right-of-Way Permit issued as part of a *subdivision* improvement agreement shall expire in accordance with the terms of that agreement.

(3) A Public Right-of-Way Permit associated with a valid Building Permit shall expire concurrently with the Building Permit.

(b) If the work authorized by a Public Right-of-Way Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued.

Issue #21: Environmentally Sensitive Lands

§129.0203 Exemptions from a Building Permit

(a) A Building Permit is not required for the following *structures* and activities.

(2) through (24) [No change]

(b) The exemptions in Section 129.0203(a) are not exemptions from the electrical, plumbing, and mechanical permit requirements. Unless the proposed work is exempt under another section of the Land Development Code, separate electrical, plumbing, and mechanical permits may be required.

- (c) The exemptions in Section 129.0203(a) do not apply to ~~alterations, repairs, or improvements of historical resources as described in Section 143.0220~~ **proposed development on a premises containing environmentally sensitive lands that requires a development permit in accordance with Section 143.0110.**
- (d) Exemption from the permit requirements of the Building Regulations does not authorize any work to be done in any manner in violation of the provisions of the Building Regulations or any other applicable local or state regulations.

§143.0110 When Environmentally Sensitive Lands Regulations Apply

(a) through (b) [No change]

- (c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:
- (1) ~~Outside the Coastal Overlay Zone, development on a premises containing environmentally sensitive lands when the development will not encroach into the environmentally sensitive lands during or after construction, if the property owner signs an acknowledgment that further development on the property is not permitted unless the development is reviewed and approved pursuant to this division and if the development proposal provides for the following:~~
- ~~(A) A 100-foot setback from sensitive biological resources;~~
 - ~~(B) A 40-foot setback from the top of slope of steep hillsides;~~
 - ~~(C) A 100-foot setback from floodplains.~~
- (2) **Development on a premises containing environmentally sensitive lands** that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or *accessory structure*, and will not encroach into the *environmentally sensitive lands* during or after construction. ~~For a premises containing a sensitive coastal bluff, any addition shall observe a minimum 40-foot setback from the coastal bluff edge.~~
- (2) **Development on a premises containing environmentally sensitive lands where the development:**
- (A) Would not encroach into environmentally sensitive lands during or after construction;**
 - (B) Would not expand brush management zone one into environmentally sensitive lands;**
 - (C) Would comply with the MHPA adjacency guidelines as applicable;**
 - (D) Would observe a minimum 40-foot setback from the coastal bluff edge of a sensitive coastal bluff; and**

(E) Would either:

(i) Observe at least 100 feet from *sensitive biological resources* and at least 40 feet from the top of slope of *steep hillsides*; or

(ii) Locate *development* in a legally graded or developed portion of the *premises* separated from *environmentally sensitive lands* by an existing *fence* or other *physical barrier*.

- (3) Outside the Coastal Overlay Zone, minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:
- (A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.
 - (B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.
 - (C) The proposed improvements do not *encroach* into *sensitive biological resources*.
 - (D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.
 - (E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any point.
- (4) through (8) [No change.]
- (9) [See Issue #17 Special Flood Hazard Areas]

Issue #22: Monitoring Wells**§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:

- (1) Private *hardscape* improvements in the *public right-of-way* including ramps required to accommodate required access for *disabled persons*;
 - (2) Fences or walls that meet the following criteria:
 - (A) There is no present use for the subject *public right-of-way*;
 - (B) The proposed *encroachment* is consistent with the underlying zone, city standards, and policies;
 - (C) The proposed *encroachment* shall be 3 feet or less in height.
 - (3) The *encroachment* is permitted under Chapter 6, Article 2, Division 11 (Utilities) or as a private underground utility service to the *applicant's* property.
 - (4) The *encroachment* is permitted under Section 141.0619(b) (Pushcarts).
 - (5) The *encroachment* is permitted under Chapter 6, Article 2, Division 10 (Newsracks).
 - (6) The *encroachment* is permitted under Section 141.0621 (Sidewalk Cafes).
 - (7) Temporary monitoring wells in the *public right-of-way*.
- (b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the applicant is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with Section 126.0502(d)(7), except for the following:
- (1) *Encroachments* listed in Section 129.0710(a)(4) through (7)
 - (2) Underground utility connections to a public main shall require a Neighborhood Development Permit in accordance with Section 126.0402(j).
 - (3) Temporary monitoring wells in the *public right-of-way*.
- (c) [No change]

Issue #23: Guest Quarters in RM-1 Zones

§131.0422 Use Regulations Table for Residential Zones

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

Table 131-04B

Use Regulations Table for Residential Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1 st & 2 nd >>	RM-											
	3 rd >>	1-			2-			3-			4-		
	4 th >>	1	2	3	4	5	6	7	8	9	10	11	12
Open Space through Agriculture [No Change]													
Residential [No Change]													
Group Living Accommodations through Single Dwelling Units [No Change]													
Separately Regulated Residential Uses													
<i>Border & Lodger</i> Accommodations through Garage, Yard & Estate Sales [No Change]													
Guest Quarters				<u>L¹¹</u>			-		-			-	
Home Occupations through Watchkeeper Quarters [No Change]													
Institutional through <i>Signs</i> [No Change]													

Footnotes for Table 131-04B

Footnotes 1 through 10 [No change]

11 A guest quarters is permitted in accordance with Section 141.0306 only where accessory to a *single dwelling unit*.

Issue #24: Art Galleries, Surf Shops, and Small Consumer Retail Uses in CV Zones

§131.0522 Use Regulations Table of Commercial Zones

[Intro statement No change]

[Legend No change]

**Table 131-05B
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-		
	3rd >>	1-			1-	2-	1-	1-	1-				
	4th >>	1	2	3	1	1	1	2	1	2	1		
Open Space through Institutional [No change]													

Use Categories/Subcategories	Zone Designator	Zones									
		[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	CN ⁽¹⁾⁻			CR-		CO-		CV-
	3rd >>	1-			1-	2-	1-		1-		1-
	4th >>	1	2	3	1	1	1	2	1	2	1
Retail Sales											
Building Supplies & Equipment through Food, Beverages and Groceries [No change]											
Consumer Goods, Furniture, Appliances, Equipment											
Pets & Pet Supplies [See Issue #13]											
Sundries, Pharmaceutical, & Convenience Sales through Wearing Apparel & Accessories [No change]											
Separately Regulated Retail Sales Uses [No change]											
Commercial Services through Signs [No change]											
		-	-	-	-	-	-	-	-	-	-

Footnotes to Table 131-05B

Footnotes 1 through 11 [No change]

¹² [See Issue #15 Instructional Studios]

¹³ Permitted in CV zones where the gross floor area occupied by an individual retail sales establishment would not exceed 2,500 square feet.

¹⁴ [See Issue #25 Specialized Massage]

Issue #25: Specialized Practice Massage Establishments

Use Categories/Subcategories	Zone Designator	Zones									
		[See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	1st & 2nd >>	CN ⁽¹⁾⁻			CR-		CO-		CV-
	3rd >>	1-			1-	2-	1-		1-		1-
	4th >>	1	2	3	1	1	1	2	1	2	1
Massage Establishments, Specialized Practice											
		L			L	L	-		-L ⁽¹⁴⁾		-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones														
	1st & 2nd >>	CC-														
3rd >>	1-	2-	3-	4-					5-							
4th >>	1 2 3	1 2 3	4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5									
Message Establishments, Specialized Practice	L	L	<u>L</u>	<u>L</u>	L											

Footnotes to Table 131-05B

Footnotes 1 through 11 [No change]

12 [See Issue #15 Instructional Studios]

13 [See Issue #24 Art Galleries]

14 Specialized practice massage establishments are permitted only as an accessory use in the CV-1-1 and CV-1-2 zones.

§141.0613 Message Establishments, Specialized Practice

Specialized practice massage establishments are police regulated businesses subject to Chapter 3, Article 3, Division 35 of the Municipal Code and are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Any *sign* advertising the establishment shall contain the full name of the operator and may contain words that identify the specialized field of practice in which the operator engages.
- (b) The letters of any words identifying the operator’s specialized field of practice shall not exceed one-half of the height of the capital letters in the name of the operator, and the words shall be uniform in height.
- (c) The phrase “massage parlor” or “massage establishment” shall not be used on any *sign* or any other form of advertising. The word “massage” shall not be used on any *sign* or any other form of advertising unless preceded by words identifying the specialized field of practice.
- (d) The owner of the establishment shall submit scale drawings of all *signs* that will be displayed on the *premises* to the City Manager to determine compliance with this section.
- (e) The owner of the establishment shall submit proof of proficiency of the operator in the specialized field of practice. Proficiency may be established by completion of a course of instruction in the specialized field of practice at a school authorized to provide such instruction by the State of California, or proof of actual practice in the field of specialization for a period of three years. The period of practice shall be attested to, in writing, by no less than three persons who meet the educational qualifications described in this section or are members of a professional organization that is incorporated in the State of California, and which fosters or promotes the specialized field of practice.

- (f) The application and business license for the establishment shall identify **identify** the business as a “Massage Establishment, Specialized Practice, pursuant to Municipal Code Section 141.0613.”

Issue #26: Public Assembly and Sensitive Receptors in Prime Industrial Lands

§131.0622 Use Regulations Table for Industrial Zones

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

Legend for Table 131-06B [No change]

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>>	1	1	1	1	1	1	1	1
Open Space through Retail Sales [No change]									
Commercial Services									
Building Services through Personal Services [No change]									
Assembly & Entertainment		-	-	-	P ⁽¹¹⁾ ₁₆	P ⁽¹⁶⁾	-	-	P ⁽¹²⁾ ₁₆
Radio & Television Studios through Visitor Accommodations [No change]									
Separately Regulated Commercial Services Uses									
Adult Entertainment Establishments through Bed & Breakfast Establishments [No change]									
Boarding Kennels/Pet Day Care Facilities [See Issue #13]									
Camping Parks [No change]									
<i>Child Care Facilities:</i>									
Child Care Centers		LC	LC	-	LC	LC	-	LC	LC
Large Family Child Care Homes		-	-	-	-	-	-	-	-
Small Family Child Care Homes		-	-	-	-	-	-	-	-

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>>	1	1	1	1	1	1	1	1
Eating and Drinking establishments Abutting Residentially Zoned Property through Urgent Care Facilities [No change]									
Veterinary Clinics & Animal Hospitals [See Issue #13]									
Zoological Parks [No change]									
Offices through Signs [No change]									

Footnotes for Table 131-06B

Footnotes 1-15 [No change]

16 **Assembly and entertainment facilities are not permitted on a premises that is identified as Prime Industrial Land.**

§141.0404 Churches and Places of Religious Assembly

Churches and places of religious assembly 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 Section 141.0404(a). *Churches* and places of religious assembly that do not comply with Section 141.0404(a) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0404(b). *Churches* and places of religious assembly may also 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 Section 141.0404(b).

(a) Limited Use Regulations

(1) *Churches* and places of religious assembly are not permitted:

(A) within the *MHPA* ~~or~~

(B) within ~~in~~ floodplains located in the Coastal Overlay Zone, ~~or~~

(C) **on a premises that is identified as Prime Industrial Land.**

(2) through (4) [No change]

(b) Conditional Use Permit Regulations

- (1) Churches and places of religious assembly 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.

(2) through (5) [No change]

§141.0407 Educational Facilities--Schools for Kindergarten to Grade 12 and Colleges/Universities

Educational facilities 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) Educational facilities are not permitted on a premises that is identified as Prime Industrial Land. Permanent development associated with educational facilities is not permitted in agricultural zones in Proposition A Lands or within floodplains located in the Coastal Overlay Zone.

(b) through (f) [No change]

§141.0617 Private Clubs, Lodges, and Fraternal Organizations

Private clubs, lodges, and fraternal organizations are associations of persons, whether incorporated or unincorporated, for the promotion of some common social, cultural, educational, religious, or recreational objective. This use does not include churches or any group whose primary objective is a business customarily carried on for a profit.

Private clubs, lodges, and fraternal organizations 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 (d) [No change]

- (e) Private clubs, lodges, and fraternal organizations are not permitted on a premises that is identified as Prime Industrial Land.

Issue #27: Companion Units

§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: ~~in Section 141.0302. Within the Coastal Overlay Zone, companion units are subject to the provisions of Chapter 12, Article 6, Division 7.~~

Limited Use Regulations: Companion units are permitted as a limited use subject to the following regulations:

- (a) Before a Building Permit may be issued for a companion unit, the property *owner* shall enter into an agreement with the City in a form that is acceptable to the City Attorney. The agreement shall include the following provisions: ~~That if the property owner does not occupy either the primary *dwelling unit* or the companion unit, only one of the units may be rented;~~ that neither the primary *dwelling unit* nor the companion unit may be sold or conveyed separately; and that the property *owner* shall reside in the primary ~~dwelling unit~~ *dwelling unit* or the companion unit. The city will submit the agreement to the County Recorder for recordation. The agreement shall run with the land and be coterminous with the life of the companion unit.
- ~~(b) Within single family residential zones, a companion unit is allowed where the existing lot area is equal to or greater than two times the minimum lot area required for the zone.~~
- ~~(c) For premises within a multi-family zone, one companion unit is permitted on property that would otherwise allow only one single *dwelling unit* based on the size of the premises, provided there is an existing single *dwelling unit*. If the premises are modified by area or zone to permit additional *dwelling units*, the companion unit shall then be considered an additional *dwelling unit* and shall not be restricted by the applicable companion unit regulations.~~
- ~~(d) A primary *dwelling unit* must exist on the premises. Concurrent construction of the primary *dwelling unit* and *companion unit* is not allowed.~~
- (eb) No more than one companion unit is permitted on a *premises*.
- (c) Within a *multiple dwelling unit zone*, a companion unit is permitted on any *premises* that would otherwise be limited to a maximum of one *single dwelling unit* based on the allowable *density* and existing area of the *premises*. *Dwelling units* on a *premises* that can accommodate *density* for *multiple dwelling units* shall be regulated in accordance with applicable zoning and not subject to Section 141.0302.
- ~~(fd)~~ A companion unit may be attached to or detached from the primary *dwelling unit* on the *premises*.
- ~~(ge)~~ If access from an improved abutting *alley* exists, vehicular access to parking spaces for the companion unit shall be from the *alley* unless the *premises* has a garage that accommodates all *off-street parking* required in accordance with this section, except for

premises located in the Beach Impact Area or any other zones in which vehicular access from the alley is required.

- (hf) If an existing garage is converted to a companion unit, another garage shall be provided on the *premises* to replace the converted parking spaces.
- (hg) Parking for the entire *premises* shall be brought into compliance with Chapter 14, Article 2, Division 5 (Parking Regulations) and with this section.
- (hh) One standard *off-street parking space* is required for each *bedroom* in the companion unit, with a minimum requirement of one *parking space* per companion unit.
- (hi) Off-street *parking* required by this section shall not be located in the area between the *street wall* and the front *property line*.
- (hj) Access to the *off-street parking* from an unimproved *alley* is not permitted.
- (hk) The *gross floor area* of the companion unit shall be included in the *floor area ratio* calculation for the *premises*.
- (hl) The *gross floor area* of the companion unit shall not exceed 700 square feet.
- (hm) One 24-in box tree shall be planted in the required front *yard* of the *premises* or in the abutting *parkway*. Existing trees that are at least 15 feet high and 15 feet in width may be used to satisfy this requirement.
- (hn) **Maximum structure height for companion units:**
 - (1) For companion units located above a garage or other accessory building:
 - (A) ~~¶~~The maximum *structure height* for flat-roofed *structures* is 21 feet; and
 - (B) ~~¶~~The maximum *structure height* is 30 feet for sloped-roofed *structures* with a roof pitch of at least 3:12 (3 vertical feet to 12 horizontal feet).
 - (2) For detached companion units, not above a garage or other accessory building:
 - (A) 15 feet without a chimney or flue, or
 - (B) 17 feet with a chimney or flue.
- (ho) Companion unit entrances shall not be located on the *building street wall* or within the front fifty percent of the *structure*
- (hp) The companion unit shall be constructed with the same siding and roofing materials as the primary *dwelling unit*.

(s) — ~~For detached companion units, the maximum structure height is:~~

(1) — ~~15 feet without a chimney or flue, or~~

(2) — ~~17 feet with a chimney or flue.~~

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

Issue #28: Fraternity Houses, Sorority Houses, and Student Dormitories

§141.0304 Fraternity Houses, Sorority Houses, and Student Dormitories

First Paragraph [No change]

- (a) Fraternity houses, sorority houses, and student dormitories may be permitted only in the following locations:
- (1) Within an area specifically designated for these facilities by the applicable land use plan, or
 - (2) **When the applicable land use plan does not contain a designated area, such facilities may be located** ~~W~~within a 1-mile radius of the boundary of a college or university campus, in any of the following zones: RM-3-7, RM-3-8, RM-3-9, RM-4-10, and RM-4-11.

(b) through (e) [No change]

Issue #29: Emergency Permits for Environmentally Sensitive Lands

§143.0126 **Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands**

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

- (a) Application. When an emergency exists, an *applicant* may use the procedures of this section instead of the standard application and decision procedures for a Site Development Permit. The *applicant* may apply for an emergency Site Development Permit in person, by letter to the City Manager, or by telephone.
- (b) Contents of Application. The application for emergency Site Development Permit shall include the following information:
- (1) The nature of the emergency;

- (2) The cause of the emergency;
- (3) The location of the emergency;
- (4) The remedial, protective, or preventive work required to deal with the emergency;
- (5) The circumstances during the emergency that justify the course of action taken or to be taken, including the probable consequences of failing to take emergency action; and
- (6) Identification of options for addressing the emergency, including the least environmentally damaging alternative.
- (c) Verification. The City Manager shall verify the facts, including the existence and nature of the emergency, to the extent that time allows.
- (d) Decision on Permit. A decision to approve, conditionally approve, or deny the emergency Site Development Permit shall be made by the City Manager.
- (e) Findings. An emergency Site Development Permit may be approved or conditionally approved only if the City Manager makes the following findings:
 - (1) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Site Development Permit and the *development* can and will be completed within 30 days unless otherwise specified in the permit; and
 - (2) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.
- (f) Conditions. The City Manager may approve an emergency Site Development Permit with conditions, including an expiration date for any work authorized by the City Manager.
 - (1) All emergency Site Development Permits shall authorize only the minimum necessary to stabilize the emergency.
 - (2)(a) If the emergency work involves only temporary impacts to *environmentally sensitive lands*, a **follow up** Neighborhood Development Permit or Site Development Permit is not required provided the *environmentally sensitive lands* are restored, in a timely manner to their natural state, to the satisfaction of the City Manager. Restoration shall be in accordance with a restoration plan that conforms with the Biology Guidelines and is approved by the City Manager. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work and work on the approved restoration plan shall be initiated within 90 days of project completion or prior to the beginning of the next rainy season, whichever is greater.
 - (3)(b) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required **through the regular process** in accordance with all regulations of this division. The application for the

Neighborhood Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work.

(g)(e) Within the Coastal Overlay Zone, a Coastal Development Permit is required for any emergency *coastal development* in accordance with Section 126.0718.

Issue #30: Interior Work Exemption from Historical Resource Survey Requirement

§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. 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 include no change to the exterior of existing structures.

(b) through (d) [No change]

Issue #31: Recordation of Ownership Interest for Parcel Maps

§144.0350 Recordation of Ownership Interest for Parcel Maps

- (a) When no dedications or offers of dedication are required, a parcel map for the division of land into four or fewer parcels shall be signed and acknowledged only by the subdivider pursuant to Government Code Section 66445(e).
- (b) Concurrent with the recordation of a parcel map for the division of land into four or fewer parcels, an applicant shall record a Statement of Ownership Interest to the satisfaction of the City Engineer indicating that any persons or entities having record title interest in the property, including but not limited to trustees and beneficiaries, consent to the proposed subdivision.
- (c) Recordation of a Statement of Ownership Interest in accordance with Section 144.0350(b) shall not be required where dedications or offers of dedications are required.

Issue #32: Initiation Process and Notices Required in Planned Districts

§151.0202 Initiation of Planned District Amendments for a Zoning or Rezoning Action

The establishment, repeal, change in boundaries or change in development controls of a planned district may be initiated as follows:

- (a) ~~The City Council or the Planning Commission may initiate the matters listed above by resolution.~~
- (b) ~~Property owners that may be affected by the planned district regulations may file a petition with the City Manager. The petition must contain the signatures of the owners of at least 50 percent of the land located within the proposed or existing planned district.~~
A proposed action to designate a zone on a property or change an existing zone may be commenced in a Planned District in the following manner:
- (a) By Resolution. The City Council or the Planning Commission may initiate a zoning or rezoning action by resolution; or
- (b) By Application. A property owner may commence a zoning or rezoning action by filing an application in accordance with Sections 112.0102 and 123.0104.

§151.0203 — Additional Notice

~~In addition to the persons entitled to be mailed notice as set forth in Section 111.0302(b), the City shall mail a Notice of Public Hearing to the owner of each parcel of land within the boundaries of the proposed planned district in accordance with Section 111.0302, no later than ten (10) working days before the date of the public hearing.~~

Issue #33: Separately Regulated Uses in Planned Districts

§151.0401 Uses Permitted in the Planned Districts

- (a) ~~Where not otherwise specified the planned district, the uses identified in Section 151.0401 Chapter 14, Article 1 (Separately Regulated Uses) may be permitted in planned districts as limited uses subject to supplemental regulations, or conditional uses requiring a Neighborhood Use Permit or Conditional Use Permit in accordance with the rules and procedures in Chapter 14, Article 1, for a Neighborhood Use Permits and Conditional Use Permits in Land Development Code Chapters 11 and 12. In addition to the uses listed in this section, other uses may be approved with a Conditional Use Permit as provided in each planned district.~~

[Delete existing subsections (b) through (f)]

- (b) The permit process for a separately regulated use shall be determined in accordance with applicable planned district use regulations.
- (c) Where the permit process is unclear within a planned district, a separately regulated use identified in Chapter 14, Article 1 may be requested in accordance with the same permit process identified for the zone in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) that most closely meets the purpose and intent of the applicable planned district zone.

- (d) In case of conflict between Section 151.0401 and regulations for a planned district, the planned district regulations shall apply.