

- Zone and up to a maximum 20 dwelling units per acre in the Transition Zone) where buildings would be clustered to provide a maximum amount of open land.
- 4 Facilities shall be designed and operated to avoid attracting birds.
 - 5 Major overhead power lines shall be located underground.
 - 6 New hospitals not permitted. Existing hospitals may expand up to 1.65 *floor area ratio*.
 - 7 Frequencies shall not interfere with military communications or navigation frequencies.
 - 8 Processing, manufacturing, or storage of bulk quantities of hazardous materials (greater than 10,000 gallons) is not permitted.
 - 9 Fuel storage must be located underground.
 - 10 Subject to a maximum lot coverage of 40 percent in the APZ I zone.
 - 11 New *development* of multiple *single dwelling units* is not permitted in the APZ I zone. A new *single dwelling unit* may be developed in accordance with the underlying base zone.
- (3) Safety compatibility shall be evaluated based on the location of the safety zone boundary line.
- (A) For a parcel located within multiple safety zones:
- (i) Where new residential *development* would be located in a building within multiple safety zones, the most restrictive safety zone shall apply.
 - (ii) Where new non-residential *development* is proposed on a *premises* with multiple safety zones, the maximum *gross floor area* permitted shall be the sum of the *gross floor area* permitted in each of the zones. *Gross floor area* may be redistributed to the least restrictive safety zone.
 - (iii) New mixed use *development* with both residential uses and non residential uses shall comply with both the residential *density* and non-residential intensity criteria as specified. Residential *density* limitations shall not be equated to the maximum intensity limits for non-residential uses.
- (B) For a parcel with areas located both inside and outside of a designated safety zone, the area of the entire parcel may be used to calculate the maximum *gross floor area* in accordance with the underlying base zone. Any portion of the *development* that would be located within a designated safety zone, shall comply with the regulations for that safety zone.

(4) Rules for calculation and measurement of safety compatibility:

(A) Residential development

The total proposed *density* (including any *density* bonus in accordance with Chapter 14, Article 3, Division 7) for new residential *development* shall comply with the maximum *density* specified in Table 132-15D. For the purpose of this section, the *density* calculation for the project may include multiple parcels.

(B) Non-residential development

(i) For new non-residential *development*, an *applicant* shall demonstrate the proposed *development* would comply with either the maximum intensity limits (people per acre) or the maximum *floor area ratio* and maximum *lot coverage* as applicable in Table 132-15D.

(ii) *Gross floor area* and *lot coverage* shall be calculated in accordance with Sections 113.0234 and 113.0240. (Parking garages may be excluded from the calculation of *gross floor area*.)

(iii) "People per acre" shall be calculated by dividing the total *gross floor area* of the proposed *development* by the sum of the minimum square feet per occupant for each proposed use (in accordance with the California Building Code or as otherwise listed in Table 132-15D), then dividing the estimated occupancy by the size of the premises (in acres).

(iv) When a building would include more than one occupancy type (as defined by the California Building Code or as otherwise listed in Table 132-15D), the sum of the ratios for each separate occupancy type divided by the total allowable intensity for each separate occupancy type shall not exceed one.

(5) An *applicant* may request approval of a Site Development Permit (Process Four) for a proposed non-residential *development* where an alternative method of calculation to Section 132.1515(a)(4)(B) is requested to demonstrate compliance with the maximum people

per acre.

- (A) Alternative methods for calculation of people per acre shall be provided in a form to the satisfaction of the City Manager and may include an estimate based on the number of total parking spaces or an estimate based on a survey of similar uses.
 - (B) In such cases, the proposed non-residential *development* may exceed the maximum *floor area ratio* specified in Table 132-15D if the maximum intensity limit is not exceeded.
 - (C) The *development permit* shall specify the maximum intensity limit for the site, and that future *development* that would exceed the specified maximum intensity shall require amendment of the *development permit* in accordance with Section 126.0113.
 - (D) Occupancy limit shall be reposted on the site accordingly.
- (b) Safety Compatibility Review for Public Use Airports:
(Blank)
- (c) Where an *applicant* disputes the City Manager's determination of use category for a proposed *development*, an *applicant* may request an interpretation by the Planning Commission in accordance with Section 131.0110(b).

§132.1520 Airspace Protection Compatibility

Airspace protection compatibility within Review Areas 1 and 2 of this overlay zone shall be evaluated as follows:

- (a) Within each airport influence area, an airspace protection area is designated to protect navigable airspace and avoid creation of hazards to aircraft in flight in accordance with Code of Federal Regulations, Title 14, Part 77. The airspace protection area geographically consists of locations within the Federal Aviation Regulations Part 77 surfaces, surfaces identified by the United States Standard for Terminal Instrument Procedures (TERPS), and the Federal Aviation Administration notification area, as designated on Map x filed with the City Clerk.
- (b) Evaluation of potential airspace obstructions in accordance with Federal Aviation Regulations, Part 77, Subpart C

- (1) Within the primary surface and beneath the approach or transitional surface area, *development* shall not exceed the Federal Aviation Regulations Part 77 surfaces.
 - (2) Within the horizontal or conical surface area,
 - (A) *Development* is permitted up to a maximum height of 35 feet above grade, even where it would exceed the Federal Aviation Regulations Part 77 surfaces.
 - (B) *Development* that would exceed the airspace protection surface elevation may be determined to be compatible if:
 - (i) The Federal Aviation Administration (FAA) determines that the *development* would not be a hazard to air navigation; and
 - (ii) Conditions of approval as directed by the FAA aeronautical study or the California Department of Transportation, Division of Aeronautics are incorporated into the permit.
- (c) FAA Notification Requirements
- (1) FAA notification is required for:
 - (A) New *development* located within the FAA notification area.
 - (B) New *development* located outside of the FAA notification area that would be 200 feet or greater above grade, or
 - (C) New *development* that would exceed the Federal Aviation Regulations Part 77 surfaces.
 - (2) Where FAA notification is required in accordance with Section 132.1520(c)(1), the *applicant* shall:
 - (A) Provide evidence that notification (FAA Form 7460-1) was submitted to the FAA in accordance with Federal Aviation Regulations Part 77, and
 - (B) Provide evidence of a final FAA determination of No Hazard to Air Navigation.
- (d) California Department of Transportation, Division of Aeronautics

Development that would include structures greater than 500 feet above grade shall obtain a permit from the California Department of Transportation unless approval is obtained from the Federal Communications Commission or the FAA (Public Utilities Code, Section 21656).

§132.1525 Aircraft Overflight Notification

- (a) An overflight notification area has been designated for areas subject to aircraft overflight within this overlay zone.
- (b) New residential development located within the overflight notification area shall record an overflight notification document with the County of San Diego as a deed notice to inform people about the presence of aircraft overflight.
 - (1) The overflight notification document shall contain the language indicated in the applicable Airport Land Use Compatibility Plan.
 - (2) The County of San Diego recording number from the overflight notification deed notice document shall be noted on the building plans.

§132.1530 Previously Conforming

This section applies to the development, maintenance and operation of existing uses and structures located within the Airport Land Use Compatibility Overlay Zone that were legally established in an airport influence area prior to adoption of an Airport Land Use Compatibility Plan.

- (a) Development that is limited to interior modifications or repairs, or any exterior repairs or maintenance that does not increase the density or floor area ratio of an existing building shall be exempt from the requirements of this division.
- (b) Reconstruction, alteration or expansion of a previously conforming use or structure may be permitted with a Building Permit (Process One) as follows:
 - (1) Previously conforming single dwelling units, and associated companion units as applicable, may be reconstructed, altered or expanded in compliance with the development regulations of the underlying base zone.
 - (2) Previously conforming multi dwelling units may be reconstructed

or altered where the *development* would not increase the density or *floor area ratio*, or exceed the maximum *structure height* limit for airspace protection. A Neighborhood Development Permit (Process Two) may be requested in accordance with Section 126.0402(a)(6) to increase the *gross floor area* of a *previously conforming multi dwelling unit structure* where necessary to comply with public health and safety requirements of the California Building Code. Additional *floor area ratio* shall not be permitted where it would increase *density*.

(3) *Previously conforming non-residential development* may be reconstructed or altered where the *development* would not increase the *floor area ratio* or increase the number of people per acre, or as otherwise described in Section 132.1530(d).

(4) A *previously conforming use* that is discontinued temporarily due to fire, natural disaster, or an act of public enemy, or for repairs, remodeling, or major alterations may be resumed within 2 years by maintenance of an active *construction permit* and continuance of the Business Tax Certificate.

(c) Where the existing use or *structure* is also *previously conforming* with respect to the underlying base zone regulations, new *development* shall be subject to Section 127.0103 (Previously Conforming) in addition to Section 132.1530.

(d) Within the MCAS Miramar Transition Zone, existing facilities for the following *previously conforming uses* may be reconstructed, altered, or expanded as follows:

(1) Educational facilities (Kindergarten through Grade 12) where the expansion is limited to a maximum of 50 students.

(2) Child care centers where the expansion is limited to a maximum of 50 students.

(3) Hospitals where the expansion is limited to a maximum *floor area ratio* of 1.65 or 300 people per acre, or

(4) Correctional facilities where the expansion would result in a maximum capacity of 999 people with fixed seating for a maximum of 299 people.

§132.1535 Infill Development Criteria

(a) This section applies to new *development* in Review Area 1 of the overlay

zone that would be consistent with the existing *development* pattern for the surrounding area established prior to adoption of an Airport Land Use Compatibility Plan, but would include uses, densities, or intensities incompatible with Sections 132.1510 or 132.1515.

- (b) An applicant may request approval of a Site Development Permit (Process Three) for new infill *development* consistent with the following:
- (1) The proposed infill *development* would not be located within an area designated as Prop A Lands in the City's General Plan.
 - (2) The proposed *development* would comply with the Land Development Code.
 - (3) The proposed *development* would be consistent with applicable *land use plans*.
 - (4) Within the MCAS Miramar airport influence area, infill *development* shall be limited to non-residential *development* located within a designated Transition Zone. Infill *development* shall not exceed the average intensity of all similar existing uses located within the Transition Zone and within a quarter mile of the proposed development, or 110 percent of the usage intensity permitted in accordance with Section 132.1515, whichever is greater.

§132.1540 Real Estate Disclosure

In accordance with state law (Business and Professional Code Section 11010, and Civil Code Sections 1102.6, 1103.4, and 1353), residential real estate transactions within this overlay zone shall disclose that property within is located within an airport influence area.

§132.1545 Airport Land Use Commission Review

- (a) The Airport Land Use Commission was established to adopt Airport Land Use Compatibility Plans and advise local agencies on the compatibility of new *development* with respect to airport-related noise, safety concerns, airspace protection, and aircraft overflight areas in accordance with adopted Airport Land Use Compatibility Plans.
- (b) The Airport Land Use Commission has no authority over existing land uses or the operation of airports. Maintenance of an existing land use or structure that does not conform to the applicable Airport Land Use Compatibility Plan shall be permitted in accordance with Section 132.1530.

- (c) Prior to approval of new *development* within the Airport Land Use Compatibility Overlay Zone, the *applicant* shall obtain a consistency determination from the Airport Land Use Commission for the following types of *development*:
- (1) *Development* projects requesting a deviation from this Division.
 - (2) *Development* projects that include rezones, new *land use plans*, or *land use plan* amendments, or
 - (3) *Development* projects that include aviation uses, non-aviation related uses located on airport property (public use airport only), or Airport Master Plans.
- (d) An updated consistency determination is required from the Airport Land Use Commission for any *development* project listed in 132.1545(c) that is subsequently modified in a manner that could be incompatible with the noise, safety, or airspace protection requirements such as:
- (1) An increase in residential *density*;
 - (2) An increase of *gross floor area*, *lot coverage*, or change in use intensity that would result in more people on the site for non-residential *development*;
 - (3) An increase of *structure height*; or
 - (4) A major change in site design.
- (e) Prior to adoption of amendments to the Land Development Code that affect land within the Airport Land Use Compatibility Overlay Zone, the City shall submit the proposed amendments to the Airport Land Use Commission for a consistency determination with applicable adopted Airport Land Use Compatibility Plans.
- (f) Consistency determinations are advisory actions made by the Airport Land Use Commission and may be overruled in accordance with Section 132.1550.

§132.1550 Overrule Process

- (a) An *applicant* may request a decision from the City Council to overrule a consistency determination made by the Airport Land Use Commission in accordance with Section 132.1545.

- (b) Associated *development permits* may be consolidated and decided by the City Council as part of the hearing to overrule the Airport Land Use Commission.
- (c) A Notice of Request for Overrule Hearing and a Notice of Public Hearing shall be provided in accordance with Section 112.0311.
- (d) A decision to overrule the Airport Land Use Commission shall be made by a minimum two-thirds vote of the City Council and shall be supported by the following findings:
- (1) The proposed *development* will not be detrimental to the public health, safety, and welfare;
 - (2) The proposed *development* will minimize the public's exposure to excessive noise and safety hazards to the extent feasible; and
 - (3) The proposed *development* will meet the purpose and intent of the California Public Utilities Code Section 21670.
- (e) Where the City Council decides to overrule:
- (1) Information supplemental to the findings listed in Section 132.1550(d) shall be entered into the hearing record as candidate overrule findings.
 - (2) A copy of the proposed decision and candidate overrule findings shall be provided to the airport operator, Airport Land Use Commission, and California Department of Transportation, Division of Aeronautics. State law requires that these agencies be granted 45 days to review the candidate overrule findings prior to final action by the City Council.
 - (3) A second hearing related to the matter of whether to overrule the Airport Land Use Commission shall be scheduled for the City Council to consider final action to overrule. The hearing date shall be scheduled at least 45 days from the date that the proposed decision and candidate overrule findings are made available in consideration of Section 132.1550(e)(2).
- (f) Where the City Council is unable to make the required findings to overrule in accordance with Section 132.1550(d), a second hearing related to the matter of whether to overrule shall not be necessary.

§151.0103 Applicable Regulations

- (a) The applicable zoning regulations in a planned district are those included in the planned district and any Land Development Code zoning regulations expressly incorporated into that planned district. Planned district regulations shall supersede any zoning regulations in the Land Development Code that are inconsistent or not expressly incorporated into the planned district regulations-, except as follows:
- (1) Within the Coastal Overlay Zone, exceptions to the standards in a planned district shall not be granted except as specifically provided for in the planned district.
 - (2) The Airport Land Use Compatibility Overlay Zone, as applied to individual property through a zoning or rezoning action, shall supersede in case of conflict with applicable planned district zoning regulations.
 - (3) Subdivision, building, plumbing and mechanical, and electrical regulations are not zoning regulations for purposes of this section and are not superseded by adoption of a planned district.
- (b) The following regulations apply in all planned districts:
- (1) Land Development Code, Chapter 11 (Land Development Procedures);
 - (2) Land Development Code, Chapter 12 (Land Development Reviews); ~~and~~
 - (3) Land Development Code, Chapter 13, Article 2 (Overlay Zones);
and
 - ~~(3)~~(4) Child care facilities regulations contained in Land Development Code Section 141.0606.