

**Article 6: Development Permits****Division 2: Neighborhood Use Permit Procedures**  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)**§126.0201 Purpose of the Neighborhood Use Permit Procedures**

The purpose of these procedures is to establish a review process for *developments* that propose new uses, changes to existing uses, or expansions of existing uses that could have limited impacts on the surrounding properties. The intent of these procedures is to determine if the *development* complies with all applicable regulations of the zone and any supplemental regulations pertaining to the use, and to apply conditions that may be necessary to help ensure compliance.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§126.0202 General Rules for a Neighborhood Use Permit**

- (a) All existing and proposed uses on the site shall be identified in the permit, including existing or new uses permitted by right in the applicable zone, any uses subject to a use permit, and those proposed uses that require the Neighborhood Use Permit.
- (b) In granting a Neighborhood Use Permit, the decision maker may impose reasonable conditions as deemed necessary and desirable to protect the public health, safety, and welfare.
- (c) The privileges and conditions of a Neighborhood Use Permit are a covenant that runs with the land and, in addition to binding the permittee, bind each successor in interest.

- (d) The decision maker may assign an expiration date to the permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§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.

**Artisan Food and Beverage Producer**

Automobile service stations  
Bed and breakfast establishments (under circumstances described in Section 141.0603)  
Boarding kennels/pet day care facilities  
Community gardens  
Comprehensive *sign* plans  
Eating and drinking establishments abutting residential zones (under circumstances described in Section 141.0607)  
Employee housing  
Home occupations (under circumstances described in Section 141.0308)  
Neighborhood identification *signs*  
Parking facilities as a primary use  
Pushcarts  
Recycling facilities (under circumstances described in Section 141.0620)  
Revolving projecting signs  
Sidewalk cafes that deviate from the requirements of Section 141.0621(a)  
Signs with automatic changing copy  
Temporary construction storage yards located off-site  
Theater *marquees*  
Urgent care facilities  
Veterinary clinics and animal hospitals  
*Wireless communication facilities* (under certain circumstances described in Section 141.0420)

- (b) The following activities require a Neighborhood Use Permit in any zone:
- (1) Resumption of a *previously conforming* use that has been discontinued for more than 2 years, as described in Section 127.0108; or
  - (2) Expansion of a *previously conforming* use of up to 20 percent of the existing *gross floor area* of the *structure*, as described in Section 127.0109.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*  
*(Amended 8-10-2004 by O-19308 N.S.; effective 4-11-2007.)*  
*(Amended 11-13-08 by O-19803 N.S.; effective 12-13-2008.)*  
*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*  
*(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)*

**§126.0204 Decision Process for a Neighborhood Use Permit**

A decision on an application for a Neighborhood Use Permit shall be made in accordance with Process Two.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§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.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

**[Editors Note:** Amendments as adopted by O-20261 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language [http://docs.sandiego.gov/municode\\_strikeout\\_ord/O-20261-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20261-SO.pdf) ]

**§126.0206 Violations of a Neighborhood Use Permit**

It is unlawful for any person to maintain, use, or develop any *premises* without a Neighborhood Use Permit if such a permit is required for that use or *development* or to maintain, use, or develop any *premises* contrary to the requirements or conditions of the Neighborhood Use Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1. Violations of this division shall be treated as strict liability offenses regardless of intent.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0207 Judicial Review**

For a Neighborhood Use Permit required by Chapter 14, Article 1, Division 11, an *applicant* may seek judicial review of a final decision on the permit application, pursuant to California Code of Civil Procedure section 1094.8. This provision does not limit an *applicant's* ability to seek judicial review by other means.

*(“Judicial Review” added 1-13-2004 by O-19253 N.S.)*

**Article 1: Separately Regulated Use Regulations**

**Division 10: Industrial Use Category--Separately Regulated Uses**

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§141.1001 Artisan Food and Beverage Producer**

Artisan Food and Beverage Producer applies to establishments up to 20,000 square feet that are primarily engaged in the commercial on-site production of food and/or beverage products such as coffee products, ice cream, baked goods, confection, alcoholic and non-alcoholic beverages, and other foodstuffs. Artisan Food and Beverage Producers are permitted as a Limited Use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit decided in accordance with Process Two in the zones indicated with a “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Accessory retail sales are permitted in accordance with Section 131.0125.
- (b) All storage shall be provided within an enclosed building, tank or silo, or screened from the public right-of-way by fences or walls or landscaping.
- (c) Stored items shall not be stacked to a height that exceeds the height of the screening.
- (d) Sales, service, product consumption and outdoor activities shall be limited to 6:00 a.m. until 10:00 p.m. if the establishment is adjacent to residential development.
- (e) Shipping and receiving activities shall occur during operating hours which are between 6:00 a.m. and 10:00 p.m.
- (f) Shipping and receiving activities shall not be performed using trucks with a Gross Vehicle Weight Rating (GVWR) of greater than 26,000 pounds if the establishment is adjacent to residential development.

**§141.100~~21~~** **Hazardous Waste Research Facilities**

This section regulates *structures*, improvements on the land, and all contiguous land used for research related to the treatment, transfer, storage, resource recovery, disposal, or recycling of *hazardous waste*.

*Hazardous waste* research facilities may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) At the time of application for a Conditional Use Permit, the *applicant* shall provide proof of approval of a Research, Development and Demonstration Permit for *Hazardous Waste* Treatment from the Environmental Protection Agency, or any other agency of the United States Government, pursuant to the Federal Resources Conservation and Recovery Act.
- (b) The *applicant* shall provide the City with documentation of the activities that will take place on the site and a plan describing the safeguards the *applicant* will employ to assure that no harm comes to the surrounding area as a result of the activities on the site.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§141.100~~32~~** **Hazardous Waste Treatment Facilities**

This section regulates *structures*, improvements on the land, and all contiguous land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of *hazardous waste*.

*Hazardous waste* treatment facilities may be permitted with a Conditional Use Permit decided in accordance with Process Five 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) At least 90 calendar days before applying for a Conditional Use Permit, the *applicant* shall file a notice of intent to apply for the permit with the City Manager and with the Office of Permit Assistance in the State Office of Planning and Research. The notice of intent shall contain a complete description of the nature, function, and scope of the *development*.

- (b) Within 90 calendar days of the date on which a notice of intent to apply for a Conditional Use Permit is filed, the Office of Permit Assistance will, in cooperation with the City Manager, convene a public meeting in the City of San Diego to inform the public about the nature, function, and scope of the proposed project and the procedures that are required for approving applications for the *development*.
- (c) Within 90 calendar days of the date on which a notice of intent to apply for a Conditional Use Permit is filed, the City Council shall appoint a seven-member local assessment committee. The membership of the local assessment committee shall be broadly constituted to reflect the makeup of the City and shall include three representatives of the City at large, two representatives of environmental or public interest groups, and two representatives of affected businesses and industries. Members of the committee shall have no direct financial interest, as defined in the California Government Code, Section 87103, in the proposed *development*. The City Council shall provide staff resources to assist the local assessment committee in performing its duties. The local assessment committee shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications. The local assessment committee shall, within the time period prescribed by the City Council, do all of the following:
  - (1) Adopt rules and procedures that are necessary to perform its duties;
  - (2) Represent generally the interest of the residents of the City and the interests of adjacent communities in negotiations with the *applicant*;
  - (3) Negotiate with the *applicant* on the detailed terms, provisions, and conditions for project approval that would protect the public health, safety, and general welfare and the environment of the City and adjacent communities, and would promote the fiscal welfare of the City through special benefits and compensation;
  - (4) Receive and expend, subject to the approval of the City Manager and authorization of the City Council, the technical assistance grants made available by the Office of Permit Assistance in the State Office of Planning and Research to enable the local assessment committee to hire an independent consultant to assist the committee in reviewing the *development* and negotiating terms, provisions, and conditions with the *applicant*; and
  - (5) Advise the City Manager, Planning Commission, and City Council of the terms, provisions, and conditions for approval that have been agreed upon by the committee and the *applicant* and of any additional information that the committee deems appropriate. The City Manager, Planning Commission, and City Council may use this advice for their independent consideration of the *development*.

- (d) The City Manager will notify the Office of Permit Assistance in the State Office of Planning and Research within 10 *business days* of the date on which an application for a Conditional Use Permit is *deemed complete* by the City.
- (e) Within 60 calendar days of receipt of this notice, the Office of Permit Assistance in the State Office of Planning and Research will convene a meeting of the lead agency and responsible agencies for the *development*, the *applicant*, the local assessment committee, and the interested public, to be held in the City of San Diego, to determine the issues that concern the agencies that are required to approve the project and the issues that concern the public. The City Manager shall provide notice to the public of the date, time, and place of the meeting.
- (f) Following the meeting required by Section 141.10032(e), the local assessment committee and the *applicant* shall meet and confer on the proposal for the purpose of establishing the terms, provisions, and conditions under which the *development* would be acceptable to the community. If the local assessment committee and the *applicant* cannot resolve any differences through the meetings, the Office of Permit Assistance in the State Office of Planning and Research may recommend the use of a mediator.
- (g) Pursuant to the California Health and Safety Code, Section 25199.7(g), the *applicant* shall pay a fee, established by the Office of Permit Assistance in the State Office of Planning and Research, equal to the cost of hiring independent consultants to review the *development*. The Office of Permit Assistance in the State Office of Planning and Research may use this money to make technical assistance grants to the local assessment committee to enable the committee to hire an independent consultant to assist the committee in reviewing the *development* and negotiating terms, provisions, and conditions with the *applicant*.
- (h) Pursuant to California Health and Safety Code Section 25199.7(h), the *applicant* shall pay one-half of the costs of any mediation process that may be recommended by the Office of Permit Assistance in the State Office of Planning and Research. The remaining costs will be paid, upon appropriation by the legislature, from the State General Fund.
- (i) Within 60 calendar days of the date on which the application is *deemed complete*, and after a noticed public hearing, the City Council shall, at the request of the *applicant*, issue an initial written determination on whether the proposed *development* is consistent with the following documents:
  - (1) The *land use plan* and zoning ordinances in effect at the time the application was received; and

- (2) The County *Hazardous Waste Management Plan* authorized by California Health and Safety Code Article 3.5 (commencing with Section 25135), if such plan is in effect at the time of the application.
- (j) The City Manager shall send a copy of the written determination, made pursuant to Section 141.100~~32~~(i), to the *applicant*.
- (k) The determination required by Section 141.100~~32~~(i) does not prohibit the City Council from making a different determination when the final decision to approve or deny the Conditional Use Permit is made, if the final determination is based on information that was not considered at the time the initial determination was made.
- (l) The decision of the City Council regarding the approval, conditions of approval, or denial of a Conditional Use Permit is final unless appealed by the *applicant* or an *interested person* to the Governor of the State of California, or the Governor's designee, pursuant to California Health and Safety Code Article 8.7 (commencing with Section 25199) to Chapter 6.5 of Division 20, within 30 calendar days after the date on which the City Council approves or denies the Conditional Use Permit.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§141.100~~43~~ Marine-Related Uses in the Coastal Zone**

Marine-related uses in the Coastal Overlay Zone are permitted in zones indicated with a "P" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Marine-related uses in the Coastal Overlay Zone may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.
- (b) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (c) A litter control program is required before approval of the permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)  
(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

**§141.10045 Mining and Extractive Industries**

Mining and extractive industries may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Exemptions. The following activities and persons are exempt from the provisions of this section:
  - (1) Prospecting for or *exploration* of minerals for commercial purposes where less than 1,000 cubic yards of *overburden* are removed in any single location of 1 acre or less;
  - (2) Any *surface mining* operation that does not involve the removal of more than 1,000 cubic yards of minerals, ores, and *overburden* or involve more than 1 acre in any single location;
  - (3) *Surface mining* operations that are required by federal law in order to protect a mining claim, if the operations are conducted solely for that purpose; and
  - (4) *Excavations* or *grading* conducted for farming, onsite construction, or for the purpose of restoring land following a flood or natural disaster.
  - (5) The solar evaporation of sea water or bay water for the production of salt and related minerals.
  - (6) Onsite *excavation* and onsite earthmoving activities that are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

- (A) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to Public Resources Code, Division 13 (commencing with Section 21000).
  - (B) The lead agency's approval of the construction project included consideration of the onsite *excavation* and onsite earthmoving activities pursuant to Public Resources Code, Division 12 (commencing with Section 21000)
  - (C) The approved construction project is consistent with the general plan or zoning of the *premises*.
  - (D) Surplus materials shall not be exported from the *premises* unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (7) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
- (A) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.
  - (B) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.
  - (C) None of the minerals being processed are being extracted onsite.
  - (D) All *reclamation* work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (8) Emergency *excavations* or *grading* conducted by the California Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

- (9) *Surface mining* operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the California Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and *surface mining* operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the California Department of Water Resources adopts, after submission to and consultation with, the California Department of Conservation, a *reclamation* plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulation of the board adopted pursuant to the California Surface Mining and Reclamation Act of 1975. The California Department of Water Resources shall provide an annual report to the California Department of Conservation by the date specified by the California Department of Conservation on these mining activities.
- (10) *Excavations or grading* for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to *excavation* and *grading* that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite *excavation* or *grading* that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to *excavation* for materials that are, or have been sold for commercial purposes.
- (A) The exemption set forth in Section 141.10054(a)(10) applies only if slope stability and erosion are controlled in accordance with Section 3704(f) and Section 3706(d) of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the California Department of Forestry and Fire Protection.
- (11) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:
- (A) The operations are being conducted in accordance with Public Resources Code, Division 3 (commencing with Section 3000).

- (B) The operations are consistent with any general plan or zoning applicable to the site.
  - (C) The earthmoving activities are within oil or gas field properties under a common owner or operator.
  - (D) No excavated materials are sold for commercial purposes.
- (b) Vested Rights
- (1) Any person who obtained a vested right to conduct a *surface mining* operation before January 1, 1976, shall not be required to secure a Conditional Use Permit pursuant to the provisions of Section 141.1005, as long as the vested right continues and no substantial change is made in the operation except in accordance with the provisions of Section 141.1005~~4~~. Any substantial change in the *surface mining* operation subsequent to January 1, 1976, may be permitted only with a Conditional Use Permit in accordance with Section 141.1004.
    - (A) A person is deemed to have a vested right if, before January 1, 1976, that person has in good faith and in reliance upon a permit or other authorization, if a permit or other authorization was required, diligently commenced *surface mining* operations and incurred substantial liabilities for work and necessary materials. Expenses incurred in obtaining the enactment of a resolution in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials that would create a vested right.
  - (2) A person with vested rights who has continued *surface mining* in the same disturbed area after January 1, 1976, and who did not receive approval for his or her reclamation plan prior to July 1, 1990, shall cease continuation of the surface mining operation until a reclamation plan has been submitted to the City Manager and approved in accordance with Process One. All *reclamation* plans submitted to the City Manager for vested operations that are conducted after January 1, 1976, shall be accompanied by the applicable deposit.
  - (3) Any person who has obtained a vested right to conduct *surface mining* operations shall obtain a grading permit and be subject to the same frequency of inspection as those mining operators required to obtain a Conditional Use Permit pursuant to Section 141.1005~~4~~.

- (4) Nothing in Section 141.100~~54~~ shall be construed as requiring the filing of a *reclamation* plan for, or the *reclamation* of, mined lands on which *surface mining* operations were conducted prior to, but not after, January 1, 1976.
- (c) The applicant shall submit a *reclamation* plan, financial assurances and grading plans, in accordance with the provisions set forth in Section 141.100~~54~~; the California Surface Mining and Reclamation Act of 1975, Article 5 including Section 2772, 2773 and 2773.1; applicable provisions of Chapter 8, Division 2, Title 14 of the California Code of Regulations including Sections 3500-3505 and 3700-3713; and procedures established by the City Manager. The Conditional Use Permit, *reclamation* plan, financial assurance, and *grading* plan shall be processed as a consolidated action.
- (d) The Director of the California Department of Conservation shall be notified by the City Manager of the filing of a Conditional Use Permit application pursuant to Section 141.100~~54~~.
- (e) In accordance with Public Resources Code section 2772, any person who owns, leases, or otherwise controls or operates on all or any portion any mined lands, or who plans to conduct *surface mining* operations on the lands, shall submit a *reclamation* plan for approval by the City Manager. The *reclamation* plan shall be submitted in a format specified by the City Manager. The *reclamation* plan shall include all information and documentation set forth in Public Resources Code sections 2772 (c) and 2773(a).
- (f) The mining operator shall file an annual *surface mining* report on forms provided by the State Mining and Geology Board with the California Department of Conservation and the City Manager no later than the anniversary date established by the Director of the California Department of Conservation, or as otherwise required by the Conditional Use Permit.
- (g) *Reclamation* plans, reports, applications, and other documents submitted in accordance with Section 141.100~~54~~ are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of this information would reveal production, reserves, or rate of depletion that is entitled to protection as proprietary information. The City Attorney shall identify the proprietary information as a separate part of each application. A copy of all permits, *reclamation* plans, reports, applications, and other documents submitted in accordance with Section 141.100~~54~~, including proprietary information, shall be furnished to the Director of the California Department of Conservation by the City Manager. Proprietary information shall be made available to persons other than the Director of Department of Conservation only when authorized by the *surface mining* owner in accordance with Public Resources Code section 2778.

- (h) As a condition of approval for the Conditional Use Permit or the *reclamation* plan, or both, the *applicant* shall agree to allow the City, upon notice of inspection, to enter the site to inspect and evaluate continuing compliance with the Conditional Use Permit and the *reclamation* plan. The inspections shall occur no less frequently than once in any calendar year, in accordance with Public Resources Code section 2774(b). The inspection shall be conducted by a state-registered geologist, state registered civil engineer, state licensed landscape architect or state registered forester, who is experienced in land *reclamation* and who has not been employed by the *surface mining* operation in any capacity during the twelve month prior to the inspection. The inspection shall be conducted using a form provided by the California Department of Conservation and subject to review and approval by the City Manager. The completed inspection form and an inspection report shall be submitted to the City Manager within fifteen days of the inspection. All costs related to the inspections and report shall be borne solely by the operator. The City Manager shall notify the California Department of Conservation within thirty days of completion of the inspection that the inspection has been conducted; the City Manager shall also forward a copy of the notice, the completed inspection form and any necessary supporting documentation, to the applicant.
  
- (i) As a result of the annual inspection, if the City Manager finds that the *surface mining* operator is not following the provisions of the *reclamation* plan, the *surface mining* operator shall be given notice to comply within a given time not to exceed ninety calendar days. A copy of the notice shall be given to the owner of the land upon which the *surface mining* operations are located. If at the end of the stated time the operator is not in compliance, the City Manager may revoke or suspend the Conditional Use Permit or the *reclamation* plan or both until the *surface mining* operator complies or obtains approval of a revised *reclamation* plan.
  
- (j) In accordance with the provisions of Section 141.100~~54~~, Public Resources Code section 2773.1 and as a condition of approval of the Condition Use Permit or the *reclamation* plan or both, the *surface mining* operator shall submit financial assurances to ensure compliance with the *surface mining* operation's *reclamation* plan, including revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, annual adjustments for disturbance to new lands and those anticipated for the upcoming calendar year, inflation and other measures, as necessary.

- (1) Cost estimates shall be prepared in accordance with the procedures outlined in the most recent edition of the State Mining and Geology Board's "Financial Assurance Guidelines" and shall be submitted to the City Manager for review and approval prior to the *surface mining* operator securing financial assurances.
- (2) A copy of the cost estimates will be forwarded to the State California Department of Conservation for review.
- (3) Revisions to financial assurances shall be submitted to the City Manager each year prior to the anniversary date for approval of the financial assurances. The annual adjustments shall take into account new lands disturbed by *surface mining* operations, changes with respect to environmental conditions affected by mining operations, new information concerning mining *reclamation* or the *reclamation* of subject mined lands, modifications of the *reclamation* plan, changes in the laws and regulations affecting *surface mining*, inflation and *reclamation* of lands accomplished in accordance with the *reclamation* plan.
- (4) The financial assurances shall be made payable to the City of San Diego and the California Department of Conservation and may be any of those listed below. The financial assurances shall be released, upon written notification from the City Manager to the *surface mining* operator and the California Department of Conservation, that the *surface mining* operator is in compliance with the provisions of the Conditional Use Permit and has completed the work in accordance with the approved *reclamation* plan. Financial assurances may be any of the following:
  - (A) A bond or bonds by one or more duly authorized corporate securities;
  - (B) A deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys;
  - (C) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the plan are on deposit and guaranteed for payment; or
  - (D) Other security which the State Mining and Geology Board determines are reasonably available and adequate to ensure *reclamation* in accordance with the California Surface Mining and Reclamation Action of 1975.

- (5) Default of financial assurances shall comply with the procedures established by the City Manager, as amended from time to time.
  
- (k) Whenever any *surface mining* operation or portion of a *surface mining* operation that is subject to Section 141.10054 is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of the Conditional Use Permit, *reclamation* plan, the provisions of Section 141.1005 and the California Surface Mining and Reclamation Act of 1975.
  
- (l) In accordance with Public Resources Code section 2770, and as further provided in Section 141.10054, whenever any *surface mining* operation becomes *idle*, the *surface mining* operator shall submit a proposed interim management plan (*IMP*) to the City Manager for review and approval. The *IMP* shall be submitted within ninety days of the operation becoming *idle* on forms provided by the City Manager. Review and approval of the *IMP* shall be carried out in accordance with Public Resources Code section 2770(h). Upon receipt of a complete proposed *IMP*, the City Manager shall forward it to the California Department of Conservation for review.
  
- (m) Deviations from the approved *reclamation* plan, including an *IMP*, are not permitted unless amendments to the *reclamation* plan, financial assurances and the Conditional Use Permit have been approved by the decision maker in accordance with Process Four, or the Substantial Conformance Review process where applicable.
  
- (n) In the OR-1-2 zone, the following regulations apply.
  - (1) Processing and other related mining activities (such as asphaltic processing) are permitted only within the allowable 25 percent development area.
  
  - (2) All mining and other related mining activities must be consistent with the objectives, guidelines, and recommendations in the Multiple Species Conservation Program Plan, the California Surface Mining and Reclamation Act of 1975, the regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) and other applicable state and local laws and regulations.
  
  - (3) Any sand removal activities should be monitored for noise impacts to surrounding sensitive habitats, and all new sediment removal or *surface mining* operations proposed in proximity to the *MHPA* or changes in existing operations, must include noise reduction methods that take into consideration the breeding and nesting seasons of sensitive bird species.

- (4) All existing and future mined lands adjacent to or within the *MHPA* shall be reclaimed in accordance with the California Surface Mining and Reclamation Act of 1975 and should be designed to contribute biologically to the *MHPA*. Native habitats should be restored as much as possible. No invasive non-native plant species shall be introduced into areas adjacent to the *MHPA*.
- (5) Any permitted *surface mining* activity, including *reclamation* of sand, must consider changes and impacts to surface water and groundwater quality, water table level, fluvial hydrology, flooding, and habitats upstream and downstream and must provide adequate mitigation.
- (o) The City Manager may suspend or revoke a Conditional Use Permit or *grading* permit for violation of the terms and conditions of the permit, inadequate financial assurances, or Municipal Code violations.  
(Amended 6-12-2001 by O-18948 N.S.; effective 12-12-2001.)  
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)  
(Amended 3-1-2005 by O-19468 N.S.; effective 4-1-2006.)

**§141.100~~56~~ Newspaper Publishing Plants**

Newspaper publishing plants 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 design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (b) Larger *structures*, areas of high activity, and parking areas shall be located to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Access to the facility shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
- (d) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (e) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§141.10076 Processing and Packaging of Plant Products and Animal By-Products Grown Off-Premises**

This use 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) Processing and packaging facilities are not permitted adjacent to residentially zoned property.
- (b) The location, number, and intensity of other nonagricultural uses located in the vicinity of the proposed establishment will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) The amount of noise and odor that might be generated by these facilities will be evaluated to determine where they may be located.
- (d) The proximity of *freeways*, primary arterials, and major *streets* serving the site will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (e) Off-street parking shall be sufficient to serve the facility without impacting adjacent or nearby property.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§141.10078 Very Heavy Industrial Uses**

This section regulates the following uses: distillation of bones; fat rendering; garbage offal or dead animal reduction; gas manufacture; glue manufacture; petroleum refining; and stock yards or slaughter of animals.

Very heavy industrial uses may be permitted with a Conditional Use Permit decided in accordance with Process Five 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 operation of these uses shall occur within an enclosed building to the extent possible.
- (b) Any outdoor activities or operations shall be located on the site so that noise, odors, dust, and fumes generated on the site have minimal impact on surrounding *development*.
- (c) Access to these facilities shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.

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- (d) The facility shall be designed to protect nearby streams and bodies of water from runoff related to the operation of the facility.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

**§141.10089 Wrecking and Dismantling of Motor Vehicles**

Wrecking and dismantling of motor vehicles may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) All storage shall be within an enclosed building or *screened* from the *public right-of-way* by *fences* or walls and landscaping. Stored items shall not be stacked to a height that exceeds the height of the *screening*.
- (b) A litter control program is required before approval of the permit.
- (c) A pest control program is required before approval of the permit.
- (d) Hours of operation shall be limited so that neighboring residential *development* is not disturbed by noise and lights.
- (e) Measures shall be taken to ensure that the ground water table is not adversely affected by the increase of impermeable surfaces due to the *development* of the facility.
- (f) Measures shall be taken to ensure that the water quality is not adversely affected by runoff of fuel, lubricants, or other pollutants.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

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**Article 1: Separately Regulated Use Regulations****Division 10: Industrial Use Category--Separately Regulated Uses***(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)***§141.1001 Artisan Food and Beverage Producer**

Artisan Food and Beverage Producer applies to establishments up to 20,000 square feet that are primarily engaged in the commercial on-site production of food and/or beverage products such as coffee products, ice cream, baked goods, confection, alcoholic and non-alcoholic beverages, and other foodstuffs. Artisan Food and Beverage Producers are permitted as a Limited Use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit decided in accordance with Process Two in the zones indicated with a “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Accessory retail sales are permitted in accordance with Section 131.0125.
- (b) All storage shall be provided within an enclosed building, tank or silo, or screened from the public right-of-way by fences or walls or landscaping.
- (c) Stored items shall not be stacked to a height that exceeds the height of the screening.
- (d) Sales, service, product consumption and outdoor activities shall be limited to 6:00 a.m. until 10:00 p.m. if the establishment is adjacent to residential development.
- (e) Shipping and receiving activities shall occur during operating hours which are between 6:00 a.m. and 10:00 p.m.
- (f) Shipping and receiving activities shall not be performed using trucks with a Gross Vehicle Weight Rating (GVWR) of greater than 26,000 pounds if the establishment is adjacent to residential development.

### §141.100~~21~~ Hazardous Waste Research Facilities

This section regulates *structures*, improvements on the land, and all contiguous land used for research related to the treatment, transfer, storage, resource recovery, disposal, or recycling of *hazardous waste*.

*Hazardous waste* research facilities may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) At the time of application for a Conditional Use Permit, the *applicant* shall provide proof of approval of a Research, Development and Demonstration Permit for *Hazardous Waste* Treatment from the Environmental Protection Agency, or any other agency of the United States Government, pursuant to the Federal Resources Conservation and Recovery Act.
- (b) The *applicant* shall provide the City with documentation of the activities that will take place on the site and a plan describing the safeguards the *applicant* will employ to assure that no harm comes to the surrounding area as a result of the activities on the site.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

### §141.100~~32~~ Hazardous Waste Treatment Facilities

This section regulates *structures*, improvements on the land, and all contiguous land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of *hazardous waste*.

*Hazardous waste* treatment facilities may be permitted with a Conditional Use Permit decided in accordance with Process Five 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) At least 90 calendar days before applying for a Conditional Use Permit, the *applicant* shall file a notice of intent to apply for the permit with the City Manager and with the Office of Permit Assistance in the State Office of Planning and Research. The notice of intent shall contain a complete description of the nature, function, and scope of the *development*.

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- (b) Within 90 calendar days of the date on which a notice of intent to apply for a Conditional Use Permit is filed, the Office of Permit Assistance will, in cooperation with the City Manager, convene a public meeting in the City of San Diego to inform the public about the nature, function, and scope of the proposed project and the procedures that are required for approving applications for the *development*.
- (c) Within 90 calendar days of the date on which a notice of intent to apply for a Conditional Use Permit is filed, the City Council shall appoint a seven-member local assessment committee. The membership of the local assessment committee shall be broadly constituted to reflect the makeup of the City and shall include three representatives of the City at large, two representatives of environmental or public interest groups, and two representatives of affected businesses and industries. Members of the committee shall have no direct financial interest, as defined in the California Government Code, Section 87103, in the proposed *development*. The City Council shall provide staff resources to assist the local assessment committee in performing its duties. The local assessment committee shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications. The local assessment committee shall, within the time period prescribed by the City Council, do all of the following:
- (1) Adopt rules and procedures that are necessary to perform its duties;
  - (2) Represent generally the interest of the residents of the City and the interests of adjacent communities in negotiations with the *applicant*;
  - (3) Negotiate with the *applicant* on the detailed terms, provisions, and conditions for project approval that would protect the public health, safety, and general welfare and the environment of the City and adjacent communities, and would promote the fiscal welfare of the City through special benefits and compensation;
  - (4) Receive and expend, subject to the approval of the City Manager and authorization of the City Council, the technical assistance grants made available by the Office of Permit Assistance in the State Office of Planning and Research to enable the local assessment committee to hire an independent consultant to assist the committee in reviewing the *development* and negotiating terms, provisions, and conditions with the *applicant*; and
  - (5) Advise the City Manager, Planning Commission, and City Council of the terms, provisions, and conditions for approval that have been agreed upon by the committee and the *applicant* and of any additional information that the committee deems appropriate. The City Manager, Planning Commission, and City Council may use this advice for their independent consideration of the *development*.

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- (d) The City Manager will notify the Office of Permit Assistance in the State Office of Planning and Research within 10 *business days* of the date on which an application for a Conditional Use Permit is *deemed complete* by the City.
- (e) Within 60 calendar days of receipt of this notice, the Office of Permit Assistance in the State Office of Planning and Research will convene a meeting of the lead agency and responsible agencies for the *development*, the *applicant*, the local assessment committee, and the interested public, to be held in the City of San Diego, to determine the issues that concern the agencies that are required to approve the project and the issues that concern the public. The City Manager shall provide notice to the public of the date, time, and place of the meeting.
- (f) Following the meeting required by Section 141.10032(e), the local assessment committee and the *applicant* shall meet and confer on the proposal for the purpose of establishing the terms, provisions, and conditions under which the *development* would be acceptable to the community. If the local assessment committee and the *applicant* cannot resolve any differences through the meetings, the Office of Permit Assistance in the State Office of Planning and Research may recommend the use of a mediator.
- (g) Pursuant to the California Health and Safety Code, Section 25199.7(g), the *applicant* shall pay a fee, established by the Office of Permit Assistance in the State Office of Planning and Research, equal to the cost of hiring independent consultants to review the *development*. The Office of Permit Assistance in the State Office of Planning and Research may use this money to make technical assistance grants to the local assessment committee to enable the committee to hire an independent consultant to assist the committee in reviewing the *development* and negotiating terms, provisions, and conditions with the *applicant*.
- (h) Pursuant to California Health and Safety Code Section 25199.7(h), the *applicant* shall pay one-half of the costs of any mediation process that may be recommended by the Office of Permit Assistance in the State Office of Planning and Research. The remaining costs will be paid, upon appropriation by the legislature, from the State General Fund.
- (i) Within 60 calendar days of the date on which the application is *deemed complete*, and after a noticed public hearing, the City Council shall, at the request of the *applicant*, issue an initial written determination on whether the proposed *development* is consistent with the following documents:
- (1) The *land use plan* and zoning ordinances in effect at the time the application was received; and

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- (2) The County *Hazardous Waste Management Plan* authorized by California Health and Safety Code Article 3.5 (commencing with Section 25135), if such plan is in effect at the time of the application.
- (j) The City Manager shall send a copy of the written determination, made pursuant to Section 141.100~~32~~(i), to the *applicant*.
- (k) The determination required by Section 141.100~~32~~(i) does not prohibit the City Council from making a different determination when the final decision to approve or deny the Conditional Use Permit is made, if the final determination is based on information that was not considered at the time the initial determination was made.
- (l) The decision of the City Council regarding the approval, conditions of approval, or denial of a Conditional Use Permit is final unless appealed by the *applicant* or an *interested person* to the Governor of the State of California, or the Governor's designee, pursuant to California Health and Safety Code Article 8.7 (commencing with Section 25199) to Chapter 6.5 of Division 20, within 30 calendar days after the date on which the City Council approves or denies the Conditional Use Permit.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

### §141.100~~43~~ Marine-Related Uses in the Coastal Zone

Marine-related uses in the Coastal Overlay Zone are permitted in zones indicated with a "P" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Marine-related uses in the Coastal Overlay Zone may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.
- (b) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (c) A litter control program is required before approval of the permit.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)  
(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

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**§141.10045 Mining and Extractive Industries**

Mining and extractive industries may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Exemptions. The following activities and persons are exempt from the provisions of this section:
- (1) Prospecting for or *exploration* of minerals for commercial purposes where less than 1,000 cubic yards of *overburden* are removed in any single location of 1 acre or less;
  - (2) Any *surface mining* operation that does not involve the removal of more than 1,000 cubic yards of minerals, ores, and *overburden* or involve more than 1 acre in any single location;
  - (3) *Surface mining* operations that are required by federal law in order to protect a mining claim, if the operations are conducted solely for that purpose; and
  - (4) *Excavations* or *grading* conducted for farming, onsite construction, or for the purpose of restoring land following a flood or natural disaster.
  - (5) The solar evaporation of sea water or bay water for the production of salt and related minerals.
  - (6) Onsite *excavation* and onsite earthmoving activities that are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

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- (A) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to Public Resources Code, Division 13 (commencing with Section 21000).
  - (B) The lead agency's approval of the construction project included consideration of the onsite *excavation* and onsite earthmoving activities pursuant to Public Resources Code, Division 12 (commencing with Section 21000)
  - (C) The approved construction project is consistent with the general plan or zoning of the *premises*.
  - (D) Surplus materials shall not be exported from the *premises* unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.
- (7) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:
- (A) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.
  - (B) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.
  - (C) None of the minerals being processed are being extracted onsite.
  - (D) All *reclamation* work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.
- (8) Emergency *excavations* or *grading* conducted by the California Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

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- (9) *Surface mining* operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the California Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and *surface mining* operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the California Department of Water Resources adopts, after submission to and consultation with, the California Department of Conservation, a *reclamation* plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulation of the board adopted pursuant to the California Surface Mining and Reclamation Act of 1975. The California Department of Water Resources shall provide an annual report to the California Department of Conservation by the date specified by the California Department of Conservation on these mining activities.
- (10) *Excavations* or *grading* for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to *excavation* and *grading* that is conducted adjacent to timber operation or forest management roads and shall not apply to onsite *excavation* or *grading* that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to *excavation* for materials that are, or have been sold for commercial purposes.
- (A) The exemption set forth in Section 141.10054(a)(10) applies only if slope stability and erosion are controlled in accordance with Section 3704(f) and Section 3706(d) of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and postclosure uses in consultation with the California Department of Forestry and Fire Protection.
- (11) Excavations, grading, or other earthmoving activities in an oil or gas field that are integral to, and necessary for, ongoing operations for the extraction of oil or gas that comply with all of the following conditions:
- (A) The operations are being conducted in accordance with Public Resources Code, Division 3 (commencing with Section 3000).

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- (B) The operations are consistent with any general plan or zoning applicable to the site.
  - (C) The earthmoving activities are within oil or gas field properties under a common owner or operator.
  - (D) No excavated materials are sold for commercial purposes.
- (b) Vested Rights
- (1) Any person who obtained a vested right to conduct a *surface mining* operation before January 1, 1976, shall not be required to secure a Conditional Use Permit pursuant to the provisions of Section 141.1005, as long as the vested right continues and no substantial change is made in the operation except in accordance with the provisions of Section 141.1005~~4~~. Any substantial change in the *surface mining* operation subsequent to January 1, 1976, may be permitted only with a Conditional Use Permit in accordance with Section 141.1004.
    - (A) A person is deemed to have a vested right if, before January 1, 1976, that person has in good faith and in reliance upon a permit or other authorization, if a permit or other authorization was required, diligently commenced *surface mining* operations and incurred substantial liabilities for work and necessary materials. Expenses incurred in obtaining the enactment of a resolution in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials that would create a vested right.
  - (2) A person with vested rights who has continued *surface mining* in the same disturbed area after January 1, 1976, and who did not receive approval for his or her reclamation plan prior to July 1, 1990, shall cease continuation of the surface mining operation until a reclamation plan has been submitted to the City Manager and approved in accordance with Process One. All *reclamation* plans submitted to the City Manager for vested operations that are conducted after January 1, 1976, shall be accompanied by the applicable deposit.
  - (3) Any person who has obtained a vested right to conduct *surface mining* operations shall obtain a grading permit and be subject to the same frequency of inspection as those mining operators required to obtain a Conditional Use Permit pursuant to Section 141.1005~~4~~.

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- (4) Nothing in Section 141.100~~5~~4 shall be construed as requiring the filing of a *reclamation* plan for, or the *reclamation* of, mined lands on which *surface mining* operations were conducted prior to, but not after, January 1, 1976.
- (c) The applicant shall submit a *reclamation* plan, financial assurances and grading plans, in accordance with the provisions set forth in Section 141.100~~5~~4; the California Surface Mining and Reclamation Act of 1975, Article 5 including Section 2772, 2773 and 2773.1; applicable provisions of Chapter 8, Division 2, Title 14 of the California Code of Regulations including Sections 3500-3505 and 3700-3713; and procedures established by the City Manager. The Conditional Use Permit, *reclamation* plan, financial assurance, and *grading* plan shall be processed as a consolidated action.
- (d) The Director of the California Department of Conservation shall be notified by the City Manager of the filing of a Conditional Use Permit application pursuant to Section 141.100~~5~~4.
- (e) In accordance with Public Resources Code section 2772, any person who owns, leases, or otherwise controls or operates on all or any portion any mined lands, or who plans to conduct *surface mining* operations on the lands, shall submit a *reclamation* plan for approval by the City Manager. The *reclamation* plan shall be submitted in a format specified by the City Manager. The *reclamation* plan shall include all information and documentation set forth in Public Resources Code sections 2772 (c) and 2773(a).
- (f) The mining operator shall file an annual *surface mining* report on forms provided by the State Mining and Geology Board with the California Department of Conservation and the City Manager no later than the anniversary date established by the Director of the California Department of Conservation, or as otherwise required by the Conditional Use Permit.
- (g) *Reclamation* plans, reports, applications, and other documents submitted in accordance with Section 141.100~~5~~4 are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of this information would reveal production, reserves, or rate of depletion that is entitled to protection as proprietary information. The City Attorney shall identify the proprietary information as a separate part of each application. A copy of all permits, *reclamation* plans, reports, applications, and other documents submitted in accordance with Section 141.100~~5~~4, including proprietary information, shall be furnished to the Director of the California Department of Conservation by the City Manager. Proprietary information shall be made available to persons other than the Director of Department of Conservation only when authorized by the *surface mining* owner in accordance with Public Resources Code section 2778.

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- (h) As a condition of approval for the Conditional Use Permit or the *reclamation* plan, or both, the *applicant* shall agree to allow the City, upon notice of inspection, to enter the site to inspect and evaluate continuing compliance with the Conditional Use Permit and the *reclamation* plan. The inspections shall occur no less frequently than once in any calendar year, in accordance with Public Resources Code section 2774(b). The inspection shall be conducted by a state-registered geologist, state registered civil engineer, state licensed landscape architect or state registered forester, who is experienced in land *reclamation* and who has not been employed by the *surface mining* operation in any capacity during the twelve month prior to the inspection. The inspection shall be conducted using a form provided by the California Department of Conservation and subject to review and approval by the City Manager. The completed inspection form and an inspection report shall be submitted to the City Manager within fifteen days of the inspection. All costs related to the inspections and report shall be borne solely by the operator. The City Manager shall notify the California Department of Conservation within thirty days of completion of the inspection that the inspection has been conducted; the City Manager shall also forward a copy of the notice, the completed inspection form and any necessary supporting documentation, to the applicant.
- (i) As a result of the annual inspection, if the City Manager finds that the *surface mining* operator is not following the provisions of the *reclamation* plan, the *surface mining* operator shall be given notice to comply within a given time not to exceed ninety calendar days. A copy of the notice shall be given to the owner of the land upon which the *surface mining* operations are located. If at the end of the stated time the operator is not in compliance, the City Manager may revoke or suspend the Conditional Use Permit or the *reclamation* plan or both until the *surface mining* operator complies or obtains approval of a revised *reclamation* plan.
- (j) In accordance with the provisions of Section 141.100~~54~~, Public Resources Code section 2773.1 and as a condition of approval of the Condition Use Permit or the *reclamation* plan or both, the *surface mining* operator shall submit financial assurances to ensure compliance with the *surface mining* operation's *reclamation* plan, including revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, annual adjustments for disturbance to new lands and those anticipated for the upcoming calendar year, inflation and other measures, as necessary.

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- (1) Cost estimates shall be prepared in accordance with the procedures outlined in the most recent edition of the State Mining and Geology Board's "Financial Assurance Guidelines" and shall be submitted to the City Manager for review and approval prior to the *surface mining* operator securing financial assurances.
- (2) A copy of the cost estimates will be forwarded to the State California Department of Conservation for review.
- (3) Revisions to financial assurances shall be submitted to the City Manager each year prior to the anniversary date for approval of the financial assurances. The annual adjustments shall take into account new lands disturbed by *surface mining* operations, changes with respect to environmental conditions affected by mining operations, new information concerning mining *reclamation* or the *reclamation* of subject mined lands, modifications of the *reclamation* plan, changes in the laws and regulations affecting *surface mining*, inflation and *reclamation* of lands accomplished in accordance with the *reclamation* plan.
- (4) The financial assurances shall be made payable to the City of San Diego and the California Department of Conservation and may be any of those listed below. The financial assurances shall be released, upon written notification from the City Manager to the *surface mining* operator and the California Department of Conservation, that the *surface mining* operator is in compliance with the provisions of the Conditional Use Permit and has completed the work in accordance with the approved *reclamation* plan. Financial assurances may be any of the following:
  - (A) A bond or bonds by one or more duly authorized corporate securities;
  - (B) A deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys;
  - (C) An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the plan are on deposit and guaranteed for payment; or
  - (D) Other security which the State Mining and Geology Board determines are reasonably available and adequate to ensure *reclamation* in accordance with the California Surface Mining and Reclamation Action of 1975.

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- (5) Default of financial assurances shall comply with the procedures established by the City Manager, as amended from time to time.
- (k) Whenever any *surface mining* operation or portion of a *surface mining* operation that is subject to Section 141.10054 is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of the Conditional Use Permit, *reclamation* plan, the provisions of Section 141.1005 and the California Surface Mining and Reclamation Act of 1975.
- (l) In accordance with Public Resources Code section 2770, and as further provided in Section 141.10054, whenever any *surface mining* operation becomes *idle*, the *surface mining* operator shall submit a proposed interim management plan (*IMP*) to the City Manager for review and approval. The *IMP* shall be submitted within ninety days of the operation becoming *idle* on forms provided by the City Manager. Review and approval of the *IMP* shall be carried out in accordance with Public Resources Code section 2770(h). Upon receipt of a complete proposed *IMP*, the City Manager shall forward it to the California Department of Conservation for review.
- (m) Deviations from the approved *reclamation* plan, including an *IMP*, are not permitted unless amendments to the *reclamation* plan, financial assurances and the Conditional Use Permit have been approved by the decision maker in accordance with Process Four, or the Substantial Conformance Review process where applicable.
- (n) In the OR-1-2 zone, the following regulations apply.
- (1) Processing and other related mining activities (such as asphaltic processing) are permitted only within the allowable 25 percent development area.
  - (2) All mining and other related mining activities must be consistent with the objectives, guidelines, and recommendations in the Multiple Species Conservation Program Plan, the California Surface Mining and Reclamation Act of 1975, the regulations in Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations) and other applicable state and local laws and regulations.
  - (3) Any sand removal activities should be monitored for noise impacts to surrounding sensitive habitats, and all new sediment removal or *surface mining* operations proposed in proximity to the *MHPA* or changes in existing operations, must include noise reduction methods that take into consideration the breeding and nesting seasons of sensitive bird species.

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- (4) All existing and future mined lands adjacent to or within the *MHPA* shall be reclaimed in accordance with the California Surface Mining and Reclamation Act of 1975 and should be designed to contribute biologically to the *MHPA*. Native habitats should be restored as much as possible. No invasive non-native plant species shall be introduced into areas adjacent to the *MHPA*
- (5) Any permitted *surface mining* activity, including *reclamation* of sand, must consider changes and impacts to surface water and groundwater quality, water table level, fluvial hydrology, flooding, and habitats upstream and downstream and must provide adequate mitigation.
- (o) The City Manager may suspend or revoke a Conditional Use Permit or *grading* permit for violation of the terms and conditions of the permit, inadequate financial assurances, or Municipal Code violations.  
 (Amended 6-12-2001 by O-18948 N.S.; effective 12-12-2001.)  
 (Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)  
 (Amended 3-1-2005 by O-19468 N.S.; effective 4-1-2006.)

**§141.100~~56~~ Newspaper Publishing Plants**

Newspaper publishing plants 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 design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (b) Larger *structures*, areas of high activity, and parking areas shall be located to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Access to the facility shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
- (d) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (e) All storage, service, and repair areas shall be located on the site so that they are not visible, or shall be *screened* so that they are not visible, from adjacent *development* and *public rights-of-way*.  
 (Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

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### §141.100~~7~~**6** Processing and Packaging of Plant Products and Animal By-Products Grown Off-Premises

This use 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) Processing and packaging facilities are not permitted adjacent to residentially zoned property.
- (b) The location, number, and intensity of other nonagricultural uses located in the vicinity of the proposed establishment will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) The amount of noise and odor that might be generated by these facilities will be evaluated to determine where they may be located.
- (d) The proximity of *freeways*, primary arterials, and major *streets* serving the site will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (e) Off-street parking shall be sufficient to serve the facility without impacting adjacent or nearby property.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

### §141.100~~7~~**8** Very Heavy Industrial Uses

This section regulates the following uses: distillation of bones; fat rendering; garbage offal or dead animal reduction; gas manufacture; glue manufacture; petroleum refining; and stock yards or slaughter of animals.

Very heavy industrial uses may be permitted with a Conditional Use Permit decided in accordance with Process Five 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 operation of these uses shall occur within an enclosed building to the extent possible.
- (b) Any outdoor activities or operations shall be located on the site so that noise, odors, dust, and fumes generated on the site have minimal impact on surrounding *development*.
- (c) Access to these facilities shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.

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- (d) The facility shall be designed to protect nearby streams and bodies of water from runoff related to the operation of the facility.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

### **§141.100~~89~~** Wrecking and Dismantling of Motor Vehicles

Wrecking and dismantling of motor vehicles may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) All storage shall be within an enclosed building or *screened* from the *public right-of-way* by *fences* or walls and landscaping. Stored items shall not be stacked to a height that exceeds the height of the *screening*.
- (b) A litter control program is required before approval of the permit.
- (c) A pest control program is required before approval of the permit.
- (d) Hours of operation shall be limited so that neighboring residential *development* is not disturbed by noise and lights.
- (e) Measures shall be taken to ensure that the ground water table is not adversely affected by the increase of impermeable surfaces due to the *development* of the facility.
- (f) Measures shall be taken to ensure that the water quality is not adversely affected by runoff of fuel, lubricants, or other pollutants.  
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)