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(REV. 1)(REV. 2)(REV. 3)

ORDINANCE NUMBER O- 18451 (NEW SERIES)

ADOPTED ON DEC 09 1997

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY REPEALING: CHAPTER II, ARTICLE 6, DIVISION 2 TITLED "HISTORICAL SITE BOARD"; CHAPTER V, ARTICLE 4, DIVISION 1, SECTION 54.0120 TITLED "EXCAVATIONS — PERMIT REQUIRED"; SUB-SECTIONS: 54.0120.1 TITLED "PROCEDURE ON APPLICATION FOR PERMIT"; 54.0120.2 TITLED "PAYMENT OF FEES"; 54.0120.3 TITLED "INVESTIGATION AND RECOMMENDATION"; 54.0120.4 TITLED "CONSIDERATION BY THE CITY MANAGER"; 54.0120.5 TITLED "BOND AND CERTIFICATE OF INSURANCE"; 54.0120.6 TITLED "PREVENTING COLLAPSE OF SIDES OF EXCAVATION"; 54.0120.7 TITLED "OTHER CONDITIONS REQUIRED OF APPLICANTS"; 54.0120.8 TITLED "REVOCATION OF SUSPENSION OF PERMIT"; 54.0120.9 TITLED "EXPIRATION OF PERMITS—ISSUANCE OF SUPPLEMENTAL PERMITS"; AND 54.0120.10 TITLED "PERMIT DOES NOT EXCUSE COMPLIANCE WITH OTHER LAWS"; "CHAPTER IX, ARTICLE 1 TITLED "BUILDING CODE"; CHAPTER IX, ARTICLE 2 TITLED "ELECTRICAL CODE"; CHAPTER IX, ARTICLE 3 TITLED "PLUMBING AND MECHANICAL CODE"; CHAPTER X, ARTICLE 1 TITLED "ZONING-ZONE PLAN"; CHAPTER X, ARTICLE 2 TITLED "SUBDIVISIONS"; CHAPTER X, ARTICLE 4 TITLED "SPECIAL SIGN DISTRICTS"; CHAPTER X, ARTICLE 5 TITLED "DEVELOPMENT AGREEMENTS"; CHAPTER XI TITLED "LAND DEVELOPMENT"; AND ADDING: NEW CHAPTER 11 TITLED "LAND DEVELOPMENT PROCEDURES"; CHAPTER 12 TITLED "LAND DEVELOPMENT REVIEWS"; CHAPTER 13 TITLED "ZONES"; AND CHAPTER 14 TITLED "GENERAL REGULATIONS", ALL RELATING TO LAND DEVELOPMENT.

WHEREAS, the City Council directed the City Manager to revise the organization and

content of the San Diego Municipal Code relating to land development; and

WHEREAS, the goals of the code update project were (1) to simplify the land development regulations; (2) to make the land development regulations more objective; (3) to make the code more adaptable; (4) to eliminate redundancies and contradictions in the land development regulations; (5) to standardize the land development regulation framework; and (6) to increase predictability in the application of land development regulations; and

WHEREAS, the City Council directed that the process to develop the proposed Land Development Code be as broad and open to comprehensive public participation as possible; and

WHEREAS, the proposed Land Development Code is based upon a comprehensive review of the City's current general and community plans and strengthens the implementation of general and community plan policies while striving for citywide consistency in land use regulations, with the exception of regulations in Chapter X, Article 3, relating to planned districts; and

WHEREAS, the City has held more than 230 public forums for discussion and input by the public on the proposed revisions; and

WHEREAS, the proposed revisions have been reviewed and recommendations made by both the Planning Commission and the Land Use and Housing Committee of the City Council; and

WHEREAS, the proposed Land Development Code accomplishes the goals set for the project by eliminating inconsistencies, duplicate requirements and conflicts contained in the existing regulations and by providing an organization and format that makes regulations easier to locate by both City staff and the public, thus reducing confusion and lost time in the review

process; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego as follows:

Section 1. That Chapter II, Article 6 of the San Diego Municipal Code is amended by repealing Division 2 titled "Historical Site Board."

Section 2. That Chapter V, Article 4, Division 1 of the San Diego Municipal Code is amended by repealing Section 54.0120 titled "Excavations — Permit Required", and by repealing the following Sub-Sections:

- 54.0120.1 titled "Procedure on Application for Permit"
- 54.0120.2 titled "Payment of Fees"
- 54.0120.3 titled "Investigation and Recommendation"
- 54.0120.4 titled "Consideration by The City Manager"
- 54.0120.5 titled "Bond and Certificate of Insurance"
- 54.0120.6 titled "Preventing Collapse of Sides of Excavation"
- 54.0120.7 titled "Other Conditions Required of Applicants"
- 54.0120.8 titled "Revocation of Suspension of Permit"
- 54.0120.9 titled "Expiration of Permits — Issuance of Supplemental Permits"
- 54.0120.10 titled "Permit Does Not Excuse Compliance With Other Laws"

Section 3. That Chapter VI, Article 2, of the San Diego Municipal Code is amended by repealing Division 4 titled "Grading" and Division 8 titled "Street Closings."

Section 4. That Chapter IX of the San Diego Municipal Code is amended by repealing Article 1 titled "Building Code", Article 2 titled "Electrical Code", and Article 3 titled "Plumbing and Mechanical Code."

Section 5. That Chapter X of the San Diego Municipal Code is amended by repealing Article 1 titled "Zoning - Zone Plan", Article 2 titled "Subdivisions", Article 4 titled "Special Sign Districts", and Article 5 titled "Development Agreements."

Section 6. That the San Diego Municipal Code is amended by repealing Chapter XI titled "Land Development."

Section 7. That the San Diego Municipal Code is amended by adding Chapter 11 titled "Land Development Procedures", Chapter 12 titled "Land Development Reviews", Chapter 13 titled "Zones", and Chapter 14 titled "General Regulations", attached hereto as Exhibit A and incorporated in this ordinance as though fully set forth.

Section 8. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date this ordinance becomes effective.

Section 9. This ordinance shall take effect and be in force on May 1, 1998 or on the date the Coastal Commission unconditionally certifies the provisions subject to Coastal Commission jurisdiction as a local coastal program amendment, whichever is later.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:cdk
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Article 3: Supplemental Development Regulations

Division 1: Environmentally Sensitive Lands Regulations

§ 143.0101 Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development* occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of *flood* control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Sensitive Biological Resources and accompanying Biology Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat based level of protection which will result through implementation of the Multiple habitat Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

§ 143.0110 When Environmentally Sensitive Lands Regulations Apply

This division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

- (a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire *premises*, unless otherwise provided in this division:
 - (1) *Sensitive biological resources*;
 - (2) *Steep hillsides*;
 - (3) *Coastal beaches*;
 - (4) *Sensitive coastal bluffs*; and
 - (5) *100- year floodplains*.
- (b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).

EXHIBIT A

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- (1) A Neighborhood Development Permit or Site Development Permit is required for all types of *development* proposals listed, in accordance with the indicated decision process.
- (2) All types of *development* proposals are subject to Section 143.0140.
- (3) Any *development* proposal that proposes to encroach into more than one type of *environmentally sensitive lands* is subject to all of the development regulations sections for each type of *environmentally sensitive lands* present. The applicable decision process is the higher process number indicated.
- (4) Any *development* proposal on a site containing *environmentally sensitive lands* may be exempt from this division if no *encroachment* into the *environmentally sensitive lands* is proposed and the *development* complies with Section 143.0110(c)(1).
- (5) Limited exceptions to the applicable development regulations for specific types of *development* are listed in Section 143.0111.

Table 143-01A
Applicability of Environmentally Sensitive Lands Regulations

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillsides	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
1. Single dwelling units on individual lots equal to or less than 15,000 square feet ⁽²⁾	R	143.0141(a)	143.0141	143.0142 except (a)	143.0143, 143.0144	143.0145
	P	NDP/ Process Two	NDP/ Process Two	NDP/ Process Two	SDP/ Process Three	NDP/ Process Two
	U	--	--	--	143.0130(a), (b)	143.0130(c)
2. Single dwelling units on lots or multiple lots totaling more than 15,000 square feet	R	143.0141(a)	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	--	--	--	143.0130(a), (b)	143.0130(c)
3. Multiple dwelling unit and non-residential development and public works projects	R	143.0141(a)	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	--	--	--	143.0130(a), (b)	143.0130(c)
4. Any subdivision of a premises	R	143.0141(a)	143.0141	143.0142 ⁽³⁾	143.0143, 143.0144	143.0145
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	--	--	--	143.0130 (a), (b)	143.0130 (c)
5. Project-specific land use plans	R	143.0141(a), 143.0115	143.0141, 143.0115	143.0142, 143.0115	143.0143, 143.0144, 143.0115	143.0145, 143.0115
	P	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five
	U	--	--	--	143.0130(a), (b)	143.0130(c)

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Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hill-sides	Sensitive Coastal Bluffs and Coastal Beaches	Floodplains
6. Any development that proposes deviations from any portion of the Environmentally Sensitive Lands Regulations	R	143.0141(a), 143.0150	143.0141, 143.0150	143.0142, 143.0150 ⁽⁴⁾	143.0143, 143.0144, 143.0150	143.0145, 143.0150
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	--	--	--	143.0130(a), (b)	143.0130(c)
7. Development other than single dwelling units on individual lots, that proposes alternative compliance for development area in steep hillsides.	R	--	--	143.0142 except (a), 143.0151	--	--
	P	--	--	SDP/ Process Three	--	--
	U	--	--	--	--	--

Legend to Table 143-01A

R	Development regulation sections (in addition to Section 143.0140) applicable to the environmentally sensitive lands present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)
U	Regulations that identify permitted uses when they are different than the applicable zone due to the environmentally sensitive lands present.

Footnotes to Table 143-01A

- (1) This includes listed species and their habitat not covered by the Take Authorizations issued to the City by the State and Federal governments under the Multiple Species Conservation Program.
- (2) This includes the *development* of one or more *lots* as long as the total area of the *lots* does not exceed 15,000 feet and the *lots* were not joined in ownership to any contiguous *lot* or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.
- (3) *Subdivision* of a *premises* less than 15,000 square feet (for *single dwelling unit development*) is not subject to Section 143.0142(a).
- (4) *Development* other than a *single dwelling unit* on an individual *lot* may use alternative compliance for development area in *steep hillsides* that does not comply with Section 143.0142(a).
- (c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:

- (1) *Development* on a *premises* containing *environmentally sensitive lands* when the

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development will not encroach into the *environmentally sensitive lands* during or after construction, if the property owner signs an acknowledgment that further *development* on the property is not permitted unless the *development* is reviewed and approved pursuant to this division and if the *development* proposal provides for the following:

- (A) A 100-foot *setback* from *sensitive biological resources*;
 - (B) A 40-foot *setback* from the top of slope of *steep hillsides*;
 - (C) A 100-foot *setback* from *coastal beaches*;
 - (D) A 100-foot *setback* from bluff edge of *sensitive coastal bluff*; and
 - (E) A 100-foot *setback* from floodplains.
- (2) *Development* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or *accessory structure* and will not encroach into the *environmentally sensitive lands* during or after construction. For a *premises* containing a *sensitive coastal bluff*, any addition above the first *floor* shall observe a minimum 40-foot *setback* from the *coastal bluff edge*.
- (3) Minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:
- (A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.
 - (B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.
 - (C) The proposed improvements do not *encroach* into *sensitive biological resources*.
 - (D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.
 - (E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any point.
- (4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.
- (5) City public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.
- (6) Restoration projects where the sole purpose is enhancement or restoration of native habitats.
- (7) Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

§ 143.0111 Limited Exceptions from Environmentally Sensitive Lands Regulations

The following *development* activities require a Neighborhood Development Permit or Site Development Permit in accordance with Table 143-01A, but the applicable development regulations are modified as indicated:

- (a) Outside the *MHPA*, mining and extractive industries may exceed the maximum allowable *steep hillside* development area described in Section 143.0142(a). Both inside and outside the *MHPA*, a Conditional Use Permit is required in accordance with Section 141.1001 and restoration of the on-site landform to a natural-appearing condition is required.
- (b) Brush management activity is exempt from all *steep hillside* development regulations in Section 143.0142 if the brush management is the minimum necessary to comply with City fire codes and no *grading* occurs in the brush management area.
- (c) Erosion control measures are exempt from the *steep hillside* development area regulations in Section 143.0142(a) if they are determined to be the only feasible means of erosion control necessary to protect the existing principal *structures* or *public improvements*.
- (d) City linear utility projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for *steep hillsides* in Section 143.0142(a) and for *sensitive biological resources* in Section 143.0141(d).
- (e) *Development* in the OF zone or within any *100-year floodplain* (formerly the FW, FC, and FPF zones) in the Mission Valley Community Plan area, is subject only to the Federal Emergency Management Agency Special Regulations in Section 143.0145(c).
- (f) *Development* in the Calle Cristobal Assessment District area and outside the Coastal Overlay Zone is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).
- (g) *Development* in the Miramar Ranch North Community Plan area and the 70 acre high school project in Scripps Ranch is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).
- (h) *Development* of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986, is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (g).

§ 143.0112 Requirement to Submit Required Documentation and Obtain Permit Prior to Development on Environmentally Sensitive Lands

It is unlawful to begin *development* on a *premises* that contains *environmentally sensitive lands* without submitting required documentation and obtaining a Neighborhood Development Permit, a Site Development Permit, or an exemption as required pursuant to this division. If unlawful *development* occurs on property containing *environmentally sensitive lands* and an enforcement action has been commenced by the City pursuant to Section 143.0160, no Neighborhood Development Permit or Site Development Permit application may be processed until the enforcement action has been concluded.

§ 143.0113

Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

- (a) In connection with any permit application for *development* on a parcel, the *applicant* shall provide the information used to determine the existence and location of *environmentally sensitive lands* in accordance with Section 112.0102(b).
- (b) Based on a project-specific analysis and the best scientific information available, the City Manager shall determine the existence and precise location of *environmentally sensitive lands* on the *premises*.

§ 143.0115

Procedures and Regulations for Project-Specific Land Use Plans

- (a) Project-specific *land use plans*, including specific plans, precise plans, privately initiated *land use plan* amendments, and future urbanizing area subarea plans, proposed for sites where *environmentally sensitive lands* are present, are subject to the regulations in this section to ensure adequate analysis of the constraints and opportunities of the planning area relative to *environmentally sensitive lands*. The analysis of *environmentally sensitive lands* for project-specific *land use plans* will be conducted in accordance with either Section 143.0115(b) or (c) based on whether or not a Site Development Permit is processed concurrently with the project-specific *land use plan*.
- (b) Where a Site Development Permit is requested concurrently with the processing of a project-specific *land use plan*, the proposed *development* is subject to the following regulations.
 - (1) The boundaries of the Site Development Permit will be the boundaries of the project-specific *land use plan*, including all individual interior *lots* within the plan area.
 - (2) A decision on a Site Development Permit processed concurrently with a project-specific *land use plan* will be made in accordance with Process Five.
 - (3) The *environmentally sensitive lands* regulations applicable to the Site Development Permit will be determined in accordance with Table 143-01A. Sufficient information must be submitted for the entire plan area in order to evaluate potential impacts to *environmentally sensitive lands*. Any deviations proposed, other than as permitted in Section 143.0115(b)(4), are subject to Section 143.0150.
 - (4) For individual *lots* outside the *MHPA*, the development area regulations for *steep hillsides* in Section 143.0142(a) may be varied provided the regulations are complied with comprehensively for the entire plan area.
 - (5) The *applicant* shall prepare a *development* suitability analysis to evaluate the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive lands* regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.
 - (6) The project-specific *land use plan* shall include a summary of the allowable

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development area and any required mitigation for each parcel. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the city boundaries and preferably within the same plan area.

- (7) Subsequent *development* proposals within the Site Development Permit area will be reviewed in accordance with the *substantial conformance* procedures. If the *development* is determined to be in conformance with the Site Development Permit and any required mitigation is provided, an amendment to the Site Development Permit will not be required. If the proposed *development* is not in conformance with the approved project-specific *land use plan*, an amendment to the Site Development Permit will be required for the *development* in addition to an amendment to the approved project-specific *land use plan*.
- (c) Where a Site Development Permit is not requested concurrently with the processing of a project-specific *land use plan*, the proposed plan and subsequent Site Development Permits are subject to the following regulations.
 - (1) The *applicant* shall prepare a *development* suitability analysis that evaluates the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive lands* regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.
 - (2) The project-specific *land use plan* shall indicate how subsequent *developments* within the plan area will comply with the *environmentally sensitive lands* regulations and the associated guidelines in the Land Development Manual. Where any deviation from this division is proposed for the plan area or on an *premises*, a description of the deviation shall be provided along with a statement of how the deviation benefits the overall design of the entire plan area. Deviations may be approved only under the following conditions:
 - (A) When there are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands* and when the deviation is the minimum necessary to afford relief and accommodate the *development*; and
 - (B) When there are special circumstances or conditions applying to the plan area that are peculiar to the land and not of the applicant's making, whereby strict application of the provisions of the *environmentally sensitive lands* regulations would deprive a property owner of reasonable use of his or her land and would result in a less desirable project-specific *land use plan*.
 - (3) The development area regulations for *steep hillsides* in Section 143.0142(a) may be varied for individual *lots* outside the *MHPA* provided the intent of these regulations is complied with comprehensively for the entire plan area.
 - (4) The project-specific *land use plan* shall acknowledge that any privately owned property that is designated entirely as open space could be proposed for *development* in accordance with the base zone. This possibility shall be taken into consideration when

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analyzing the total potential development area within the plan area.

- (5) The project-specific *land use plan* shall include an implementation strategy for acquisition of those parcels designated as open space. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the City boundaries and preferably within the same plan area.
- (6) After approval of the project-specific *land use plan*, a Site Development Permit shall be required for all proposed individual *developments* within the plan area and shall be reviewed in accordance with Process Four. Additional information pertaining to *environmentally sensitive lands* may be required in order to conduct a detailed analysis of the specific *development* proposal. Approval of the individual Site Development Permits will require conformance with the approved project-specific *land use plan* and any required mitigation shall be provided. Deviation *findings* will not be required if the proposed *development* is consistent with the approved project-specific *land use plan*. If a proposed *development* is not in conformance with the approved project-specific *land use plan*, approval of a Site Development Permit requires compliance with all of the *environmentally sensitive lands* regulations.
- (7) Conformance with the *environmentally sensitive lands* regulations and associated guidelines in the Land Development Manual is required for all *environmentally sensitive lands* impacts not addressed by the approved project-specific *land use plan*.

§ 143.0126

Emergency Authorization to Impact Environmentally Sensitive Lands

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

- (a) If the emergency work involves only temporary impacts to *environmentally sensitive lands*, a Neighborhood Development Permit or Site Development Permit is not required provided the *environmentally sensitive lands* are restored to their natural state, in accordance with a restoration plan approved by the City Manager. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work.
- (b) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required in accordance with all regulations of this division. The application for the Neighborhood Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work.

§ 143.0130

Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within *environmentally sensitive lands* are those allowed in the applicable zone, except where limited by this section.

- (a) *Sensitive Coastal Bluff Areas*. Permitted uses and activities in *sensitive coastal bluff* areas, as indicated on Map Drawing No. C-713, are limited to the following:
 - (1) *Single Dwelling Units* together with *accessory structures* and landscape features incidental to residential uses;

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- (2) Bicycle storage facilities;
 - (3) Public comfort stations;
 - (4) Public pergolas and gazebos;
 - (5) Public parking lots;
 - (6) Public seating benches;
 - (7) *Fences* and walls, provided they do not interfere with existing or designated public access ways;
 - (8) Safety and public information *signs*;
 - (9) Public stairways, ramps, and other physical beach access facilities, as identified within an applicable land use plan;
 - (10) Essential public walkways leading to permitted beach access facilities;
 - (11) Essential public drainage facilities; and
 - (12) Bluff repair and erosion control measures.
- (b) *Coastal Beach Areas*. Permitted uses and activities in *coastal beach* areas, as identified on Map Drawing No. C-713, are limited to the following:
- (1) Lifeguard towers and stations and associated life and security facilities;
 - (2) Public comfort stations;
 - (3) Public piers;
 - (4) Safety and public information *signs*;
 - (5) Shoreline protective works to prevent bluff and beach erosion or where necessary to protect coastal dependent uses, public beach roadways, or existing principal *structures* in danger from wave and wind action and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply;
 - (6) Stairways, ramps, and other physical access *structures*, as proposed within an applicable land use plan; and
 - (7) Public recreational equipment.
- (c) *Floodways*. Uses permitted within the *floodway* portion of a *100-year floodplain* are those allowed by the OF zone, as indicated in Table 131-02B.

§ 143.0140 General Development Regulations for all Environmentally Sensitive Lands

Development that proposes *encroachment* into *environmentally sensitive lands* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations.

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- (a) *Environmentally sensitive lands* that are outside of the allowable development area on a *premises* shall be left in a natural state and used only for those passive activities allowed as a condition of permit approval. The landowner may elect to offer to dedicate in fee the undeveloped remainder portion of the *premises* to the City to relieve the land owner of management and liability obligations associated with that portion of the *premises*. Otherwise, the passive activities allowed on the undeveloped remainder of the *premises* and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0151.
- (b) The allowable development area for all proposed *subdivisions* is based on the existing *lot* or *premises* to be subdivided. If no *development* is proposed on any newly created *lot*, the future development area of the *lot* shall be indicated on the required *grading* plan and included in the maximum allowable development area calculation for the *subdivision*.
- (c) No building *lot* shall be created that provides such a small development area that future reasonable *development* of the *lot* will require additional *encroachment* into *environmentally sensitive lands* beyond the maximum allowable development area of the original, unsubdivided *premises*. If additional development area is proposed for a *lot* that would exceed the maximum allowable development area of the original, unsubdivided *premises*, a deviation in accordance with Section 143.0150 is required, regardless of the *lot* size and the existing development area of the individual *lot*.
- (d) No temporary disturbance or storage of material or equipment is permitted in *environmentally sensitive lands*, unless the disturbance or storage occurs within an area approved for *development* by a Site Development Permit or unless it can be demonstrated that the disturbance or storage will not alter the landform or cause permanent habitat loss and the land will be revegetated and restored in accordance with the Biology Guidelines in the Land Development Manual.

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Development Regulations for Sensitive Biological Resources

Development that proposes *encroachment* into *sensitive biological resources* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

- (a) State and federal law precludes adverse impacts to *wetlands* or listed non-covered species habitat. The *applicant* shall confer with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the *development* proposal. *Grading* or *construction permits* shall not be issued for any project that adversely impacts *Wetlands* or Listed non-covered species habitat until all necessary federal and state permits have been obtained.
- (b) Outside and inside the *MHPA*, impacts to *wetlands*, including vernal pools in naturally occurring complexes, shall be avoided. A *wetland buffer* shall be maintained around all *wetlands* when necessary and as appropriate to protect the functions and values of the *wetland*. Mitigation for impacts associated with a deviation shall achieve the goal of no-net-loss and retain in-kind functions and values.
- (c) Inside the *MHPA*, *development* shall avoid impacts to narrow endemic species. Outside the *MHPA*, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

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- (d) Inside the *MHPA*, *development* is permitted only if necessary to achieve the allowable development area in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b), unless exempted from the development area regulations pursuant to Section 143.0111.
- (e) Inside and adjacent to the *MHPA*, all *development* proposals shall be consistent with the City of San Diego *MSCP Subarea Plan*.
- (f) Inside the *MHPA*, any change of an agricultural use to a non-agricultural use is subject to the development area regulations of Section 143.0141(d). Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.
- (g) Outside the *MHPA*, *development* of lands that are designated as open space in the applicable *land use plan* and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with Section 131.0250(a).
- (h) Outside the *MHPA*, *encroachment* into *sensitive biological resources* is not limited, except as set forth in Section 143.0141(b) and (g).
- (i) All *development* occurring in *sensitive biological resources* both inside and outside the *MHPA* is subject to a site-specific impact analysis conducted by the City Manager, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to *sensitive biological resources* and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following, as appropriate to the nature and extent of the impact.
 - (1) Acquisition or *dedication* of another site that can serve to mitigate the project impacts, with limited right of entry for habitat management, as necessary, if the site is not dedicated. This site must have long-term viability and the biological values must be equal to or greater than the impacted site.
 - (2) Preservation or *dedication* of on-site *sensitive biological resources*, creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary, if the site is not dedicated. The site must have long-term viability and the biological values must be equal to or greater than the impacted site.
 - (3) In circumstances where the area of impact is small, monetary payment of compensation into a fund in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.
- (j) *Grading* during wildlife breeding seasons shall be consistent with the requirements of the City of San Diego *MSCP Subarea Plan*.
- (k) *Sensitive biological resources* that are outside of the allowable development area on a *premises*, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive

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activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

§ 143.0142 Development Regulations for Steep Hillside

Development that proposes *encroachment* into *steep hillsides* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Allowable Development Area

- (1) Inside of the *MHPA*, the allowable development area is determined in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b).
- (2) Outside of the *MHPA*, the allowable development area includes all portions of the *premises* without *steep hillsides*. *Steep hillsides* shall be preserved in their natural state, except that *development* is permitted in *steep hillsides* if necessary to achieve a maximum development area of 25 percent of the premises.
- (3) Outside of the *MHPA*, up to an additional 15 percent development area is permitted only as follows and as long as the total development area does not exceed 40 percent of the *premises*, pursuant to the Steep Hillside Guidelines in the Land Development Manual:
 - (A) For projects where the following major public facilities are required: publicly owned parks and recreation facilities, fire and police stations, publicly owned libraries, public *schools*, major *streets* and primary arterials, and *public utility* systems;
 - (B) For projects where the existing development area is not contiguous, and access to the entirety of the development area is not otherwise available; and
 - (C) For projects where the existing development area does not have direct access to a *public right-of-way*.
- (b) All *development* occurring in *steep hillsides* shall comply with the design standards identified in the Steep Hillside Guidelines in the Land Development Manual for the type of *development* proposed.
- (c) Newly created slopes shall not exceed the slope gradient permitted in Section 142.0133.
- (d) Disturbed portions of the site in 25 percent (4 horizontal feet to 1 vertical foot) or greater slopes shall be revegetated or restored in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations).
- (e) Before approval of any Neighborhood Development Permit or Site Development Permit, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.
- (f) Any increase in runoff resulting from the *development* of the site shall be directed away from any *steep hillside* areas and either into an existing or newly improved public storm drain

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system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off.

(g) Erosion Control Measures

- (1) Erosion control measures are not subject to the 25 percent development area regulations in Section 143.0142(a), but are subject to the landscape regulations in Chapter 14, Article 2, Division 4 and the Steep Hillside Guidelines in the Land Development Manual.
- (2) Air-placed concrete, including gunite or shotcrete, *retaining walls*, buttress *fills*, and other similar erosion control measures may be allowed only if determined to be the only feasible means of erosion control to protect the existing principal *structures* or *public improvements*.
 - (A) These measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing adjacent landform characteristics including color coating, texturing, landscape, and topographical features.
 - (B) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the permittee shall provide written permission from the City Manager before approval of the Site Development Permit. Documentation of this approval shall be recorded with the conditions of permit approval.

§ 143.0143 Development Regulations for Sensitive Coastal Bluffs

Development that proposes to encroach into *sensitive coastal bluffs*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062 or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

- (a) No *development* is permitted on the face of a *sensitive coastal bluff*, except as permitted in Section 143.0143(g) and (h), and the *coastal bluff face* shall be preserved as a condition of permit approval.
- (b) On the portion of a *premises* where *development* is permitted, the proposed *grading* shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area.
- (c) Only native or other drought-tolerant plant species shall be used in landscaped areas in order to minimize irrigation requirements and to reduce potential slide hazards due to overwatering of the *coastal bluffs*.
- (d) All drainage from the improvements on the *premises* shall be directed away from any *coastal bluff* and either into an existing or newly improved public storm drain system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the *coastal bluff*.
- (e) Before approval of any Site Development Permit, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.

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(f) All *development* including buildings, *accessory structures*, and any additions to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:

- (1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the principal *structures*.
- (2) *Accessory structures* and landscape features customary and incidental to residential uses shall observe a minimum 5-foot distance from the *coastal bluff edge* provided, however, that these shall be located at *grade*. *Accessory structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and walls, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, buildings, pools, spas, and upper *floor* decks with load-bearing support *structures*.
- (3) *Fences* within the required distance from the *coastal bluff edge* shall be *open fences*. *Fences* located at the side *property lines* may extend to the *coastal bluff edge*, provided that within 5 feet of the *coastal bluff edge*, the *fence* is no more than 5 feet high and is an *open fence*. Other *open fences* may be permitted at the *coastal bluff edge* only if necessary to provide for safety and to protect resource areas.
- (4) Essential public drainage facilities and public walkways leading to permitted beach access facilities may be installed without a *setback* from the *coastal bluff edge* provided they are designed to minimize impacts to the *coastal bluff face* and *coastal beach* areas.

(g) *Coastal bluff* repair and erosion control measures may occur on the bluff face only if they comply with the following:

- (1) *Coastal bluff* repair and erosion control measures may be allowed on the *coastal bluff face* only if determined to be the only feasible means of erosion control to protect the existing principal *structures* or *public improvements*.
- (2) *Coastal bluff* repair and erosion control measures shall not cause significant alteration of the natural character of the bluff face.
- (3) The *applicant* shall submit a *geotechnical report* that documents the need for an erosion control measure to the City Manager. The *geotechnical report* shall identify the type and design of the erosion control measure necessary for protection of the existing principal *structures*, based upon site-specific conditions. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.
- (4) Air-placed concrete, including gunite or shotcrete, *retaining walls*, *fills* or other similar erosion control measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.
- (5) Where erosion control measure are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the *applicant* shall provide written permission from the City Manager before approval of any permit. Documentation of this approval shall be recorded with the conditions of permit approval.

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- (h) Essential public drainage facilities and public stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face only if identified in an approved *land use plan*. These facilities shall be designed to minimize impacts to the bluff face and beach area.
- (i) All *development* occurring on *sensitive coastal bluffs* shall be in conformance with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.
- (j) A visual corridor of not less than 10 feet in width, and running the full depth of the *premises*, shall be preserved as a condition of Neighborhood Development Permit or Site Development Permit approval whenever both of the following conditions exist:
 - (1) The proposed *development* is located on a *premises* that lies between the shoreline and the nearest through vehicular public access route paralleling the shoreline; and
 - (2) The requirement for a visual corridor is feasible and will serve to preserve or enhance public views that are identified in the applicable *land use plan*.

Where remodeling is proposed and existing *development* is to be retained that precludes establishment of a 10-foot-wide corridor, preservation of any existing visual corridor on the site will be accepted.

- (k) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises*, shall be offered for *dedication* whenever all of the following conditions exist:
 - (1) The proposed *development* is located on *premises* that lies between the shoreline and the nearest through vehicular public access route paralleling the shoreline.
 - (2) The need for the accessway has been identified in the applicable *land use plan* or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and
 - (3) Impacts caused by the proposed *development* justify the requirement for a vertical accessway.

§ 143.0144 Development Regulations for Coastal Beaches

The following development regulations apply to *development* proposed on a *premises* containing a *coastal beach*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062 or on a *premises* that does not qualify for an exemption pursuant to Section 143.0110(c).

- (a) No *development* is permitted on the portion of the site containing the *coastal beach*, except as permitted in Section 143.0130(b).
- (b) All *development* occurring on a site containing *coastal beaches* must conform with the Coastal Beaches and Bluffs Guidelines in the Land Development Manual.
- (c) A visual corridor of not less than 10 feet in width, and running the full depth of the *premises*, shall be preserved as a condition of Neighborhood Development Permit or Site Development Permit approval whenever the requirement for a visual corridor is feasible and will serve to preserve or enhance public views that are identified in the applicable *land use plan*.

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Where remodeling is proposed and existing *development* is to be retained that precludes establishment of a 10-foot-wide corridor, preservation of any existing visual corridor on the site will be accepted.

- (d) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises*, shall be offered for *dedication* whenever both of the following conditions exist:
 - (1) The need for the accessway has been identified in the applicable *land use plan*, or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and
 - (2) Impacts caused by the proposed *development* justify the requirement for a vertical accessway.
- (e) An easement for public access and passive recreational uses located along the shoreline paralleling the water's edge shall be offered for *dedication* as a public easement. The easement shall have a minimum width of 25 feet measured from the mean high tide line to the toe of an existing *coastal bluff*, the first line of terrestrial vegetation where there is no *coastal bluff*, or an existing or proposed seawall or other protective device whenever both of the following conditions exist:
 - (1) The proposed *development* is located on property that contains a sandy or cobble beach or passable headland; and
 - (2) The impacts caused by the proposed *development* justify the requirement for the easement.

§ 143.0145 Development Regulations for Floodplains

The degree of *flood* protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods* can and will occur on rare occasions. It is possible that increased *flood* heights may result from man-made or natural causes. This section does not imply that land outside the areas of *special flood hazards* or uses permitted within such areas will be free from *flooding* or *flood* damages. This section shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency (FEMA), for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

The following development regulations apply to all *development* proposing to encroach into *100-year floodplains*, including both the *floodway* and *floodplain fringe* areas or that does not qualify for an exemption pursuant to Section 143.0110(c):

(a) *Floodways*

- (1) Within the *floodway* portion of a *premises* containing a *100-year floodplain*, development regulations are as set forth for the OF zone, pursuant to Section 131.0231.
- (2) *Structures* associated with any allowed use shall comply with the following requirements:
 - (A) *Structures* shall not be attached to a foundation, in order to readily move them in case of *flood*; and
 - (B) *Structures* shall be removed upon imminence of *flooding*, as predicted by the

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National Weather Service or local public weather broadcast. If a *structure* is not removed and *flooding* occurs, the retrieval or salvage of the *structure* and repair of any damage caused by the *structure* shall be the responsibility of the owner.

- (3) *Channelization* or other substantial alteration of rivers or streams shall be limited to that necessary for the following:
 - (A) Essential public service projects, where no other feasible construction method or alternative project location exists; and
 - (B) *Flood* control projects, where no other feasible method for protecting existing public or private *development* exists and where such protection is necessary for public safety.
- (4) *Development* in *floodways* shall be offset by improvements or modifications to enable the passage of a *100-year frequency flood*, in accordance with the FEMA standards and regulations provided in Section 143.0145(c).
- (5) *Development* that involves *channelization* or other substantial alteration of rivers or streams is subject to the following requirements.
 - (A) All requirements and relevant recommendations of hydrological studies for the watershed of the affected stream, as approved by the City Engineer, shall be incorporated into the project design and mitigation measures. These requirements include erosional characteristics, flow velocities, volume, sediment transport, and maintenance of hydrology.
 - (B) The channel shall be designed to ensure that the following occur:
 - (i) Stream scour is minimized;
 - (ii) Erosion protection is provided;
 - (iii) Water flow velocities are maintained as specified by the City Engineer;
 - (iv) There are neither significant increases nor contributions to downstream bank erosion and sedimentation of *sensitive biological resources*; acceptable techniques to control stream sediment include planting riparian vegetation in and near the stream and detention or retention basins;
 - (v) Wildlife habitat and corridors are maintained;
 - (vi) Resource management criteria are implemented consistent with applicable *land use plans*; and
 - (vii) Groundwater recharge capability is maintained or improved.
 - (C) Channels that accommodate a *100-year frequency flood* shall do so without increasing the water surface elevation more than one foot at any point from the level of a nonconfined *100-year frequency flood* in the natural undeveloped floodplain. Channels may accommodate less than a *100-year frequency flood* (low-flow channels), but shall be designed and constructed in accordance with FEMA regulations.

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- (D) All artificial channels shall consist of natural bottoms and sides and shall be designed and sized to accommodate existing and proposed riparian vegetation and other natural or proposed constraints. Where maintenance is proposed or required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party shall be identified and a maintenance and monitoring process shall be established to the satisfaction of the City Manager.
- (6) *Development* shall not significantly adversely affect existing *sensitive biological resources* on-site or off-site.
- (b) *Floodplain Fringe*. The applicable development regulations are those in the underlying zone, subject to the following supplemental regulations:
- (1) Within the *floodplain fringe* of a *100-year floodplain*, permanent *structures* and *fill* for permanent *structures*, roads, and other *development* are allowed only if the following conditions are met:
 - (A) The *development* or *fill* will not significantly adversely affect existing *sensitive biological resources* on-site or off-site;
 - (B) The *development* is capable of withstanding periodic *flooding* and does not require or cause the construction of off-site *flood* protective works including artificial *flood* channels, revetments, and levees nor will it cause adverse impacts related to *flooding* of properties located upstream or downstream, nor will it increase or expand a *Flood Insurance Rate Map (FIRM)* or *Flood Hazard Boundary Map (FHBM)* Zone A;
 - (C) *Grading* and *filling* are minimized, harm to the environmental values of the floodplain is minimized including peak flow storage capability, and *wetlands* hydrology is maintained;
 - (D) The *development* neither significantly increases nor contributes to downstream bank erosion and sedimentation nor causes an increase in *flood* flow velocities or volume; and
 - (E) There will be no significant adverse water quality impacts, and the *development* is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System, as implemented by the City of San Diego.
 - (2) All *development* that involves *fill*, *channelization*, or other alteration of a *100-year floodplain* is subject to the requirements for *channelization* in Section 143.0145(a)(5) and with FEMA regulations.
- (c) Special Regulations as Required by FEMA.

All proposed *development* within the *100-year floodplain* is subject to the following requirements and all other applicable requirements and regulations of FEMA.

(1) *Development* and Permit Review

- (A) Where *base flood elevation* data has not been provided by the FEMA Flood Insurance Study for the City of San Diego, the City Engineer shall obtain, review, and utilize *base flood elevation* and *floodway* data available from federal or state sources, or require submittal of such data from the *applicant*. The City Engineer

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shall make interpretations, where needed, as to the location of the boundaries of the areas of *special flood hazards*, based on the best available engineering or scientific information.

- (B) Proposed *development* in areas of a *special flood hazard* shall not adversely affect the *flood* carrying capacity of areas where *base flood elevations* have been determined but the *floodway* has not been designated. "Adversely affect" as used in this section means that the cumulative effect of the proposed *development*, when combined with all other existing and anticipated *development*, will not increase the water surface elevation of the *100-year frequency flood* more than one foot at any point.
- (C) In all cases where a watercourse, floodplain, or portion of a floodplain is to be altered the City Engineer shall do the following:
 - (i) Notify affected, adjacent communities and the California Department of Water Resources of any proposed alteration or relocation of a watercourse and submit evidence of the notice to the Federal Insurance Administration;
 - (ii) Require that the *flood* carrying capacity of the altered or relocated portion of the watercourse is maintained; and
 - (iii) Secure and maintain for public inspection and availability the *certifications*, appeals, and variances required by these regulations.
- (D) The *applicant* shall grant a flowage easement to the City for that portion of the property within a *floodway*.
- (E) Appropriate agreements shall be secured between the *applicant* and the City to assure participation by the *applicant* or any successor in interest in financing of future *flood* control works.
- (F) *Development* in a *100-year floodplain* shall not increase or expand a *FIRM* Zone A.
- (G) In all *floodways*, any *encroachment*, including *fill*, new construction, significant modifications, and other *development* is prohibited unless *certification* by a registered professional engineer or architect is provided demonstrating that *encroachments* will not result in any increase in *flood* levels during the occurrence of the base *flood* discharge.
- (2) Standards for *Subdivisions*
 - (A) All preliminary *subdivision* proposals shall identify the *flood* hazard area and the elevation of the base *flood*.
 - (B) All final *subdivision maps* shall provide the elevation of proposed *structures* and pads. If the site is *filled* above the *100-year frequency flood* level, the *lowest floor*, including *basement*, shall be certified to be 2 feet above the *base flood elevation* by a registered professional engineer or surveyor, and the *certification* shall be provided to the City Manager.
 - (C) All *subdivisions* shall be designed to minimize *flood* damage.

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(D) All *subdivisions* shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize *flood* damage.

(E) All *subdivisions* shall provide adequate drainage to reduce exposure to *flood* hazards.

(F) The final map shall bear the notation "Subject to Inundation" for those portions of the property with a *grade* lower than 2 feet above the *base flood elevation*.

(3) Standards of Construction

In all areas of *special flood hazard*, the following standards apply for all *development*.

(A) All permitted, permanent *structures* and other significant improvements shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(B) All permitted permanent *structures* and other significant improvements shall be constructed with materials and utility equipment resistant to *flood* damage.

(C) Construction methods and practices that minimize *flood* damage shall be used.

(D) All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located to prevent water from entering or accumulating within the equipment components during conditions of *flooding*.

(E) *Breakaway walls* shall be certified by a registered engineer or architect to meet all applicable FEMA requirements. The *certification* shall be provided to the City Manager before final inspection approval.

(F) New construction and modification of any *structure* shall have the *lowest floor*, including *basement*, elevated at least 2 feet above the *base flood elevation*. Upon completion of the *development*, the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor to be properly elevated. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

(G) New construction and modification of any *structure* in *FIRM* Zone AH or AO shall have the *lowest floor*, including *basement*, elevated above the highest adjacent *grade* at least 2 feet higher than the depth number specified on the *FIRM*, or at least 4 feet if no depth number is specified. Upon the completion of the *structure* the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor, to be properly elevated. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

(H) Permitted nonresidential construction shall either be elevated as required by Section 143.0145(c)(3)(F) or (G) or, together with attendant utility and sanitary facilities, meet the flood proofing requirements of FEMA. *Certification* by a registered professional engineer or architect that such requirements are met shall be

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recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval. The City Manager reserves the right to require a preliminary *certification* before foundation inspection approval.

- (I) Fully enclosed areas below the *lowest floor* that are subject to *flooding* shall be certified by a registered professional engineer or architect that they comply with the flood proofing requirements of FEMA. The *certification* shall be provided to the City Manager before final inspection approval.

(4) Standards for *Manufactured Homes*

All new and replacement *manufactured homes* and additions to *manufactured homes* are subject to the following regulations.

- (A) The *lowest floor* shall be elevated at least 2 feet above the *base flood elevation*.
- (B) *Manufactured homes* shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.
- (C) A registered engineer or architect must certify that the conditions of this subsection have been met. The *certification* shall be recorded with the County Recorder, and the *certification* and evidence of recordation shall be provided to the City Manager before final inspection approval.

(5) Standards for Utilities

Certification shall be provided to the City Manager before final inspection approval that the following requirements have been met.

- (A) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of *flood* waters into the system and discharge from systems into *flood* waters.
- (B) On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during *flooding*.

§ 143.0150 Deviations from Environmentally Sensitive Lands Regulations

Plans submitted in accordance with this section shall, to the maximum extent feasible, comply with the regulations of this division. If a proposed *development* does not comply with the development regulations of this division and a deviation is requested as indicated in Table 143-01A, the Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit in accordance with Process Four, subject to the following:

- (a) Deviations from the regulations of this division may be granted only if the decision maker makes the *findings* in Section 126.0504(c).
- (b) Deviations from the FEMA Special Regulations in Section 143.0145(c) may be granted only if the decision maker makes the *findings* in Section 126.0504(d).

§ 143.0151 Alternative Compliance for Steep Hillside Development Area Regulations

Proposed *developments* that do not comply with the development area regulations of Section 143.0142(a) and do not result in conflicts with other regulations may be considered as alternative compliance as indicated in Table 143-01A, pursuant to the regulations in this section. The Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit with alternative compliance in accordance with Process Four, subject to the following:

- (a) Alternative compliance shall not be used in conjunction with any development permit for a *single dwelling unit* on an individual *lot*;
- (b) Conformance with all other Environmentally Sensitive Lands Regulations is required unless a deviation is approved with the Site Development Permit, in accordance with Section 143.0150;
- (c) Alternative compliance may be granted only if the decision maker makes the findings in Section 126.0504(e); and
- (d) Alternative compliance shall not be considered for lands that are designated as open space in the applicable *land use plan* or that are zoned OR-1-1 or OR-1-2.

§ 143.0152 Covenants of Easements Pursuant to Environmentally Sensitive Lands Regulations

As authorized by California Government Code Section 65871, the owner of any *premises* affected by issuance of a permit under this division as described in Section 143.0140(a), shall execute a covenant of easement unless the owner dedicates the remainder portion of the property in fee to the City. The covenant of easement shall be recorded against title to the affected *premises* and executed in favor of the City.

- (a) The owner shall draft the covenant of easement as follows:
 - (1) To contain a legal description of the *premises* affected by the permit with a description of the *development* area and the *environmentally sensitive lands* that will be preserved;
 - (2) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting use of the *environmentally sensitive lands* covered by the permit;
 - (3) To ensure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected *premises*; and
 - (4) To ensure enforceability of the covenant of easement by the City, or jointly and severally by the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game in those instances when the covenant of easement affects *premises* containing *sensitive biological resources* or other lands that have been accepted as mitigation.
- (b) A Process Four hearing shall be held to consider a formal, written request directed to the City by any person requesting the release of a covenant of easement recorded pursuant to this division. A release of any covenant of easement recorded pursuant to this division shall be recorded by the City only when it is determined by the decision maker that restriction of the

§ 143.0152
Cont'd property is no longer necessary to achieve the land use goals of the City. In any instance where the covenant of easement concerns *sensitive biological resources*, a determination by the decision maker to release the covenant may be made only with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Game .

§ 143.0155 **Administrative Guidelines for Environmentally Sensitive Lands Regulations**

The City Manager is authorized to promulgate and publish Steep Hillside Guidelines, Biology Guidelines, Coastal Bluffs and Beaches Guidelines, and other support documents to be located in the Land Development Manual, as necessary to implement this division. These administrative guidelines shall serve as baseline standards for processing Neighborhood Development Permits and Site Development Permits issued pursuant to this division.

§ 143.0160 **Violations and Remedies**

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code

