

ORDINANCE NUMBER O- 18479 (NEW SERIES)

ADOPTED ON APR 07 1998

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 14, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 103.1402, 103.1404, 103.1405, 103.1406, 103.1409, 103.1411, 103.1413, 103.1414, 103.1420, 103.1421, 103.1422, 103.1423, 103.1424 ALL RELATING TO CASS STREET COMMERCIAL PLANNED DISTRICT.

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

Section 1. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1402, to read as follows:

**SEC. 103.1402 Applicable Regulations**

Where not otherwise specified by the division, the following chapters of the Land Development Code apply:

Chapter 11 (Land Development Procedures);

Chapter 12 (Land Development Reviews);

Chapter 13 (Zones);

Chapter 14, Article 1 (Separately Regulated Use Regulations);

Chapter 14, Article 2, Division 1 (Grading Regulations);

Chapter 14, Article 2, Division 2 (Drainage Regulations);

Chapter 14, Article 2, Division 3 (Fence Regulations);

Chapter 14, Article 2, Division 5 (Parking Regulations);

Chapter 14, Article 2, Division 6 (Public Facility Regulations);

Chapter 14, Article 2, Division 8 (Refuse and Recyclable Materials Storage Regulations);

Chapter 14, Article 3 (Supplemental Development Regulations);

Chapter 14, Article 4 (Subdivision Regulations);

Chapter 14, Article 5 (Building Regulations);

Chapter 14, Article 6 (Electrical Regulations); and

Chapter 14, Article 7 (Plumbing and Mechanical Regulations)

Where there is a conflict between the Land Development Code and this division, this division applies.

Section 2. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1404, to read as follows:

**SEC. 103.1404 Approval Required before Issuance of Permit**

The City Manager shall not issue any permit for the installation of fixtures or equipment, or for the erection, construction, conversion, demolition, establishment, alteration or enlargement of any building, structure or improvement, or for the occupancy of any building or structure in the Cass Street Commercial Planned District until approval of the appropriate decisionmaker has been obtained by the applicant or owner. Each application for a planned district permit shall state therein the purpose for which the proposed building, structure or improvement is intended to be used.

[No change in the last paragraph of this section.]

Section 3. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1405, to read as follows:

**SEC. 103.1405 Procedures and Fees**

An application for the permits listed in Section 103.1406 shall be filed in accordance with Land Development Code Chapter 11, Article 2, (Required Steps in Processing).

The contents of application shall include the following:

A. through D. [No change.]

E. Any other information deemed necessary by the City Manager to judge compliance with the regulations contained herein and other applicable laws and regulations.

F. [No change.]

Section 4. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1406, to read as follows:

**SEC. 103.1406 Decision Process**

**A. ADMINISTRATIVE REVIEW**

1. Projects that meet these planned district regulations, and are not subject to other discretionary decisions, may be approved or denied by the City Manager in accordance with Process One. Projects that require the issuance of variations from the regulations contained in this Division, or require discretionary review, are subject to Section 103.1406(B).

2. Improvements requiring an encroachment permit shall be reviewed by the City Manager and the encroachment permit may be approved or denied, in accordance with Process One, by the City Engineer.

3. The City Manager may conduct further review and approve or deny an application for an exception from the provisions of the Cass Street Commercial Planned District in accordance with Process Two, when the application is for limited relief in the case of new construction or remodeling which would result in a finished project (all structures on the premises) deviating twenty percent (20%) or less from applicable development regulations pertaining to: required yards or setbacks, or facade offsets. However, the City Manager shall require additional landscaping that may be feasible placed on the site or parkway according to City-wide landscape standards, and/or other architectural features or improvements. The City Manager shall in no case provide Administrative Review or approve an application for an exception from floor area ratio, height, density, amount of parking, or use. The decision of the City Manager shall be based upon substantial conformance with the regulations and the Purpose and Intent of the Cass Street Commercial Planned District. The granting of a deviation shall be for the purpose of providing design flexibility resulting in a project which benefits surrounding properties and the community. The City Manager's decision may be appealed to a Hearing Officer in accordance with Land Development Code Section 112.0504.

#### B. CASS STREET COMMERCIAL DEVELOPMENT PERMIT

1. Except as set out in Section 103.1406(B)(3), requests for variances, conditional use permits, Special Use Permits, other special permits, final or parcel maps, or other City discretionary permits, shall be acted upon in accordance with the applicable provisions of the Land Development Code.

2. [No change.]

3. Public improvements and encroachment permits shall be reviewed by the City Manager and City Engineer for consistency with this Division. These permits are subject to approval by the City Engineer and may be appealed under the provisions of the Land Development Code.

Section 5. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1409, to read as follows:

**SEC. 103.1409 Special Use Permits**

A Special Use Permit (SUP) is required for certain specified uses in the Cass Street Commercial Planned District, and for all other applicable discretionary development permits required by this Code such as conditional use and planned commercial development permits located within the boundaries of this planned district. An application for a SUP may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three. The Hearing Officer's decision may be appealed to the Planning Commission in accordance with Land Development Code section 112.0506. The Hearing Officer may approve the application for a SUP if the Hearing Officer makes the following specific findings can be made:

A. through C. [No change.]

Section 6. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1411, to read as follows:

**SEC. 103.1411 Permit Time Limits and Time Extension**

A valid permit approved under this Division shall expire and become void thirty-six (36) months after the "Date of Final Action" of the permit if the permit is not

utilized in the manner set forth in Land Development Code sections 126.0108 and 126.0109.

A. [No change.]

B. [No change in first paragraph.]

The expiration date of a valid permit approved under this Division may be extended in accordance with Land Development Code section 126.0111.

Section 7. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1413, to read as follows:

**SEC. 103.1413 Permitted Uses**

[No change in first paragraph.]

A. [No change.]

B. Residential and apartment development to a maximum density of one dwelling unit per 1,500 square feet of lot area, except that this density may be exceeded in conjunction with a density bonus for the provision of affordable housing pursuant to Land Development Code Chapter 14, Article 3, Division 7 (Affordable Housing Density Bonus Regulations).

C. [No change.]

D. Public utility electrical substations, gas regulators, and communications' equipment buildings developed in accordance with building and landscaping plans approved by the City Manager.

E. Any uses which, the Planning Commission finds, in accordance with Process Four, to be similar in character to the uses enumerated in this section and are clearly

within the intent and purpose of this zone. The adopted resolution embodying any such finding shall be filed in the office of the City Clerk.

F. Business and professional offices (excluding employment agencies and hiring halls) shall be permitted; provided, however, that none may occupy any portion of the ground floor of any building except in conjunction with the rehabilitation of an existing structure or a planned commercial development.

A planned commercial development with office use on the ground floor may be permitted by Special Use Permit, if all of the following conditions and operational requirements are met:

1. [No change.]
2. Building street facades of ground floor office uses shall include pedestrian-oriented design features such as enhanced entry ways and windows.

Such lot or parcel may not be used by one (1) or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five (5) or more persons in one (1) calendar year who have committed, been charged by criminal indictment or complaint, or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, or the office use shall become previously conforming use and be subject to Land Development Code Chapter 12, Article 7 (Previously Conforming Premises and Uses.

G. through I. [No change.]

J. Other uses that may be permitted by conditional use permit in the CN-1-2 Zone may be permitted subject to a Special Use Permit. Outdoor storage and display of new unregistered motor vehicles shall not be permitted.

K. [No change.]

Section 8. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1414, to read as follows:

**SEC. 103.1414 Minimum Lot Area and Dimensions**

A. through D. [No change.]

E. Exception: Any lot which qualifies under the definition of a lot as set forth in the Land Development Code and which does not comply in all respect with the minimum lot dimensions specified herein may nevertheless be used as permitted and otherwise regulated by the provisions applicable to this planned district.

Section 9. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1420 to read as follows:

**SEC. 103.1420 Outdoor Display and Storage Regulations**

A. The following listed merchandise sold or rented on the premises may be displayed outdoors without screening walls or fences, except along property lines that abut residentially zoned lots:

1. through 5. [No change.]

B. [No change.]

C. All walls and fences required in Section 103.1420(B) shall be a minimum of



six (6) feet in height and shall be constructed and maintained with not less than fifty percent (50%) of the surface area impervious to light. Deviation from this requirement may be permitted subject to the approval of the City Manager for areas which are to be used exclusively for display purposes. The location, materials and design of required walls and fences shall be subject to approval by the City Manager. Whenever feasible, the approval of the City Manager shall be based upon the similarity of architectural design and appearance of the wall or fence to existing buildings on the premises or to buildings being constructed concurrently on the premises. Such walls or fences shall be maintained in accordance with the provisions set forth in Land Development Code Section 142.0380.

Section 10. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1421, to read as follows:

**SEC. 103.1421 Off-Street Parking Regulations**

A. Every premises used for one or more of the permitted uses listed in Section 103.1414 shall be provided with a minimum of off-street parking spaces on the same lot or premises, except as otherwise provided in Land Development Code Chapter 14, Article 3, Division 5 (Parking Regulations).

B. through E. [No change.]

F. Parking reductions may be permitted for lot consolidation and mixed use projects. The request for reduction in the amount of reduced parking may be approved, conditionally approved or denied, by a Hearing Officer, in accordance with Process Three, after considering the recommendations of the City Manager. The Hearing

Officer's decision may be appealed to the Board of Zoning Appeals in accordance with Section 112.0506. The amount of reduced parking will depend on the uses and hours of operation proposed for the project, as established through the development permit.

G. All off-street parking facilities shall be constructed, maintained, and operated in compliance with Land Development Code Chapter 14, Article 3, Division 5 (Parking Regulations).

Section 11. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1422, to read as follows:

**SEC. 103.1422 Landscaping Regulations**

A. Prior to the use and occupancy of any premises, the required front yard setback within said premises abutting public street rights-of-way (except for approved ways of ingress and egress) shall be suitably landscaped with shrubs, trees, and ornamental ground cover. Prior to the issuance of any building permits, a complete landscaping plan shall be submitted to the City Manager for approval. Said landscaping plan shall be in substantial conformance with standards and specifications adopted by the Planning Commission as set forth in the document entitled "Developmental Standards and Operational Standards - Landscaped Strips," on file in the office of the Development Services Department. Substantial conformance shall be determined by the City Manager. Landscaping and required watering systems shall be installed prior to the use of the premises. All landscaping material in required landscaped areas shall be permanently maintained in a growing and healthy condition, including trimming, as appropriate to the landscaping material in accordance with the "Developmental Standards and Operational

Standards - Landscaped Strips."

B. When landscape screening is used to enclose areas used for outdoor display or storage, a minimum landscaping strip of five (5) feet shall be included with trees of a minimum height of eight (8) feet at the time of installation. Such a screening proposal shall be submitted to the City Manager for review and approval. The landscape screening shall be developed in conformance with standards adopted by the Planning Commission as set forth in the document entitled "Development and Maintenance Standards - Landscaping" on file in the office of the Development Services Department. Substantial conformance shall be determined by the City Manager. Landscape screening shall be permanently maintained in accordance with the adopted standards referred to above.

C. All edges of parking areas (lots plus above ground structures) shall be landscaped with a five-foot landscaping buffer. Wheel stops shall be placed two feet away from the landscaped buffer.

[No change in second paragraph.]

Section 12. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1423, to read as follows:

**SEC. 103.1423 Sign Regulations**

A. The aggregate area of all signs permitted on the premises (excluding signs designating the premises for sale, rent or lease) shall not exceed one-half of a square foot for each lineal foot of the street frontage of the premises, provided that the aggregate area of all signs used by a single place of business need not be less than 15 square feet. Signs may be utilized to identify the uses of the premises, to offer the premises for sale, rent, or

lease, to advertise products, services or events provided on the premises or to display public interest messages as described in Land Development Code Section 142.1210(a)(1)(B) - (D).

B. Wall signs as defined in Land Development Code Section 113.0103, are permitted provided that no such sign shall project above the nearest parapet or eave of the building to which it is affixed. It is further provided that the area of wall signs shall not exceed two feet in height multiplied by the width of the premises, or 15 square feet per premise, whichever is less.

C. and H. [No change.]

I. All signs permitted by the provisions of this section shall also comply with the provisions of Land Development Code Chapter 12, Article 9, Division 8 (Sign Permit Procedures).

Section 13. That Chapter X, Article 3, Division 14, of the San Diego Municipal Code is amended by amending section 103.1424, to read as follows:

**SEC. 103.1424 Streetscape Development Regulations/Encroachment Permits**

[No change in first paragraph.]

The following Streetscape and Encroachment Permit Standards shall be the basis for project review by the City Manager.

**A. DRIVEWAYS AND CURB CUTS**

1. Driveway widths shall be in conformance with Land Development Code Section 142.0560. No new driveways shall be permitted on Cass Street, except as provided in paragraphs 3 and 4 below.

2. through 5. [No change.]

#### B. UNDERGROUND PARKING ENCROACHMENTS

Encroachment for underground parking spaces may be permitted only if a more efficient underground parking design, as determined by the City Manager, can be provided without resulting in a major expansion to the underground parking area.

[No change in last two paragraphs.]

C. [No change.]

#### D. PARKWAY LANDSCAPING AND STREET TREES

Landscaping of areas between the sidewalk and the curb shall be encouraged on Cass Street and on side streets. Such planting within the street right-of-way shall be subject to the approval of the City Manager as required by Section 62.0603. The provision of street trees and vegetated parkway areas shall be included in the calculation of the required vegetation in front yards and street side yards. Vegetated parkway areas with the specified street tree species shall be permitted to contribute up to two-thirds of the required front and street side yard vegetation. Each one square foot of vegetated parkway area with street trees provided shall satisfy one and one-half square feet of the front and street side yard vegetated area requirements.

[No change in next three paragraphs.]

1. through 3. [No change.]

4. Street Tree Irrigation.

All landscaping in the public right-of-way shall have a permanently installed and maintained irrigation system designed by registered landscaped architect, or

as approved by the City Manager as follows:

a. through f. [No change.]

E. [No change.]

F. UTILITIES

1. and 2. [No change.]

3. Public utility systems and service facilities shall be located underground within the property boundaries as provided for in Land Development Code Section 144.0240. Any waiver granted to this requirement shall be subject to the property owner's agreement not to oppose the formation of an undergrounding district in the future.

G. [No change.]

H. SIDEWALK CAFES

Sidewalk cafes shall be permitted throughout the planned district as regulated by Land Development Code Section 141.0621.

I. [No change.]

Section 14. 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

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