

ORDINANCE NUMBER O- 18480 (NEW SERIES)

ADOPTED ON APR 07 1998

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 19 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 103.1902, 103.1903, 103.1904, 103.1906, 103.1911, 103.1915, 103.1917, 103.1918, 103.1919, 103.1925, 103.1931, 103.1932, 103.1933, 103.1934, 103.1935, 103.1936, 103.1952, 103.1953, 103.1955, AND ADDING SECTION 103.1959, ALL RELATING TO THE CENTRE CITY PLANNED DISTRICT.

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

Section 1. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1902, to read as follows:

SEC. 103.1902 Definitions

"Adjacent Lot" through "Comprehensive Sign Design Plan" [No change.]

"Conditional Use" means any use that requires a Conditional Use Permit subject to the regulations set forth in Section 103.0105.

"Cornice" through "Encapsulate" [No change.]

"Floor Area Ratio" means the numerical value obtained by dividing the total Gross Floor Area of building(s) by the area of the lot or premises, and as further defined in Land Development Code Section 113.0103.

"Gross Floor Area" means the total horizontal square footage of existing, proposed or potential floors of building(s) or portion thereof, included within the exterior surface of the surrounding exterior walls. The Gross Floor Area is calculated in

relationship to the structure and grade adjacent to the exterior walls of a building, and as further defined in Land Development Code Section 113.0103.

“Habitable Room” through “Urban Open Space” [No change.]

Section 2. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1903, to read as follows:

SEC. 103.1903 Boundaries and Applicable Districts

This Division applies to all property located in the Centre City Community Planning Area shown in Figure 1 of Chapter X, Article 3, Division 19, except for lands within the jurisdiction of the San Diego Unified Port District which are subject to the provisions of the San Diego Port District Act, the Tidelands Trust and the California Coastal Act of 1976, the Navy Broadway Complex, and land within the jurisdiction of the Gaslamp Quarter Planned District and Marina Planned District, codified in the San Diego Municipal Code as Chapter X, Article 3, Division 4 et seq., and Chapter X, Article 3, Division 20 et seq., respectively.

Section 3. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1904, to read as follows:

SEC. 103.1904 Administration and Required Permits

A. Administration

The President of Centre City Development Corporation or his or her designee (the "President") shall administer this Division to ensure compliance with the regulations and procedures of this Division and the Centre City Community Plan. The City Manager shall administer the issuance of Zoning Use Certificates ("ZUCs") in compliance with the

land use classifications permitted in TABLE 4 of Chapter X, Article 3, Division 19, Land Use Classifications Permitted by Land Use Districts, and Figure 2 of Chapter X, Article 3, Division 19, Land Use Map.

B. Permit Required

1. The provisions of this Division apply to any construction, erection, conversion, establishment, alteration, enlargement, or change in use in any area of Centre City identified in Section 103.1903.

2. through 4. [No change.]

5. No permit may be issued for the construction, erection, conversion, establishment, alteration, enlargement, or change in use in any area of Centre City identified in Section 103.1903 until the owner or applicant obtains approval of a Centre City Development Permit by the President has been obtained by the owner or applicant.

C. Use of Existing Structures [No change.]

D. Previously Conforming Uses

1. Any existing use in a structure existing as of May 11, 1992, that does not meet the criteria established by this Division will be considered a previously conforming use.

2. If the previously conforming use does not meet the residential land use requirements of the Mixed Use/Residential or the Hotel/Residential Districts but is otherwise a permitted use as shown in Table 4 of Chapter X, Article 3, Division 19, then it may be expanded or enlarged up to one hundred percent (100%) of the existing gross square footage of the building.

3. If the previously conforming use is on a five thousand (5,000) square foot lot or less and is otherwise a permitted use as shown on Table 4 of this Division, it may be expanded up to the maximum floor area ratio.

4. The strict application of the property development regulations contained in Section 103.1915(E), (F), (H), (J) and (K) as they apply to conversion, alteration, of enlargement of existing structures may not meet the purpose and intent of this Division.

Therefore, the President may grant exception to the property development regulations of Section 103.1915(E), (F), (H), (J) and (K), for the conversion, alteration or enlargement of existing structures if all of the following conditions are met:

a. through d. [No change.]

5. Discontinuance of a previously conforming use for a continuous period of twelve (12) months or more, is deemed an abandonment of any previously conforming rights existing at the enactment of the Division.

E. Historic Sites

1. The President shall review all project proposals that alter a designated historic site or any site listed in the Historic Site Inventory of Centre City East, November 1988; the Historic Site Inventory of Core, May 1989; and the Historic Inventory of Bayside, May 1989 (the "Historic Site Inventory") which has not yet been considered for designation by the Historical Resources Board.

2. The President may approve minor alterations (as determined by the President) to a designated historical resource or a site listed in the Historic Site Inventory which has not yet been considered for designation by the Historical Resources Board.

3. [No change.]

F. Demolition Permits

1. No permits shall be issued for the demolition or removal of any building or structure unless the application for the permit has been approved by the President. If any structure or building is intentionally demolished or substantially damaged without obtaining a demolition permit, a building permit for that site will not be issued for a period of one year or a previously issued permit may be revoked for the period of one year. If the site was a designated historical resource, a permit will not be issued for two (2) years or a previously issued permit may be revoked for a period of two (2) years.

2. The President may not approve an application for a demolition permit unless it is determined that the site in question is not a designated historical resource or a site listed in the Historic Site Inventory which has not yet been considered for designation by the Historical Resources Board. The President shall make the determination within ten (10) working days of the receipt of the application in the offices of the Centre City Development Corporation ("CCDC"). If the President does not make the determination within that specified period, the site shall be deemed not to be a designated historical resource or a site listed in the Historic Site Inventory which has not yet been considered for designation by the Historical Resources Board. If the site is found to be listed in the Historic Site Inventory and has not yet been considered for designation by the Historical Resources Board, the demolition or removal permit application shall not be approved for ninety (90) days or until the Historical Resources Board has made a formal determination of the site's historic significance, whichever occurs first. The provisions of this section

do not apply to the following:

a. [No change.]

b. Any permit approved by the President, Centre City Development Corporation Board, Planning Commission, Redevelopment Agency of The City of San Diego, or City Council as part of a development project submitted, reviewed and approved in accordance with this Division, and provided that such development application includes an environmental document prepared in accordance with the California Environmental Quality Act which describes and addresses the historic or architectural significance of the property. That environmental document shall be reviewed by the Historical Resources Board for the purpose of recommending to the President whether the proposed project should be approved, modified or denied based on the importance of the existing building(s) or structure(s).

G. Other Applicable Planning and Zoning Regulations

1. In evaluating and reviewing the appropriateness of any development for which a Centre City Development Permit is required, the President shall utilize the provisions of this Division and the following as they apply and as they may be subsequently amended:

a. through g. [No change.]

2. Notwithstanding the provisions of Section 103.0105, the President shall be the decision maker for the purpose of granting conditional use permits within the boundaries delineated in Section 103.1903.

The President shall grant conditional use permits according to the provisions of

Section 103.0105, Land Development Code Chapter 12, Article 6, Division 3 (Conditional Use Permit Procedures), and Chapter 14, Article 1 (Separately Regulated Use Regulations). In all cases, the appeals procedures shall remain the same for conditional use permits in 103.1904(G)(2), with the following exception:

For the conditional use permits listed in Section 103.0105 that are decided by Process Five, the President shall serve as the decision maker, but appeals shall be heard by the City Council, following a recommendation to the City Council by the Planning Commission as set out in Land Development Code Section 112.0509.

3. Where not otherwise specified in this 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 4 (Landscape 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 2, Division 12 (Sign 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)

4. and 5. [No change.]

Section 4. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1906, to read as follows:

SEC. 103.1906 Project Review Procedures

A. Administrative Review

Upon receipt of a complete Centre City Development Permit application, the President shall conduct an administrative review of the subject project. No public hearing is required for this review.

B. Exceptions

The President may grant a maximum deviation of fifteen percent (15%) [twenty percent (20%) for parcels ten thousand (10,000) square feet or less] to Section 103.1915(E)(2)(b) and (E)(2)(c) if all of the following conditions are met:

1. through 5. [No change.]

C. Permit Issuance

If the President approves a Centre City Development Permit, the application shall be referred to Building Inspection or the City Engineer for any other action as necessary.

D. Permit Denial

Denial of any Centre City Development Permit application requires the President to issue findings in writing of nonconformance with the provisions of this Division and the Centre City Community Plan.

E. Appeals

1. Appeals of the President's determination can be made to the Planning Commission. Appeals must be submitted in writing to CCDC within ten (10) working days following the date of the President's decision.

2. The following sections of this Division are appealable:

a. Section 103.1915(E)(2)(d) regarding the articulation of the upper tower.

b. Section 103.1906(B), denial of a request for an exception pursuant to the exception criteria.

3. Any project that is appealed requires a Notice of Public Hearing ten (10) working days prior to the Planning Commission hearing. Noticing requirements of Land Development Code Chapter 11, Article 2, Division 3 (Notice) apply to this section.

F. [No change.]

G. Permit Revocation

The President at any time may revoke a Centre City Development Permit issued under this Division for failure to comply with the conditions of approval. Prior to such a revocation, the applicant shall be given a hearing after ten (10) calendar days' notice to show cause why the permit should not be revoked.

Section 5. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1910, to read as follows:

Section 6. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1911, to read as follows:

SEC. 103.1911 Performance Standards

The following performance standards shall apply to all land use classifications including the use of existing structures, expansion of previously conforming land uses and proposed land uses.

A. through D. [No change.]

Section 7. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1915, to read as follows:

SEC. 103.1915 Property Development Regulations

A. [No change.]

B. Minimum Building Setbacks

None, except where specified in Section 103.1915(E), (F) and (G); and, the President may require a ten foot (10') setback where a project is adjoining an existing residential project to maintain minimum provisions for light and air.

C. Building Height

1. through 4. [No change.]

5. Throughout the remainder of Centre City, building heights are determined by the Airport Approach Overlay Zone; (Land Development Code Chapter 13, Article 2, Division 2), the Federal Aviation Administration (FAA), and the San Diego

Unified Port District, as applicable.

D. Floor Area Ratios

1. through 3. [No change.]

4. Street Level Use Incentive

Within the Street Level Use Incentive Area, specified in Figure 6 of Chapter X, Article 3, Division 19, up to 2.0 of floor area ratio may be excluded from the calculation of the maximum permitted floor area ratio provided that the excluded floor area is: (1) within the building base; (2) is not located below the tower floor plate; (3) is not used as parking; (4) meets the street level development standards of Section 103.1915(F); and (5) meets the street level use requirements of Section 103.1910(H).

E. [No change.]

F. Street Level Development Standards

1. [No change.]

2. Street Wall Height

a. and b. [No change.]

c. On sites with slopes greater than five percent (5%), the height of the street wall shall be measured at the midpoint of each bay as shown in Figure E of Chapter X, Article 3, Division 19, as defined in Section 103.1915(F) (3)(a).

3. and 4. [No change.]

G. and H. [No change.]

I. Sun Access Criteria

1. [No change.]

2. [No change in first paragraph.]

a. [No change.]

b. The Transition Envelope is defined by the Street Level

Development Standards of this Division on the east, west, and south block faces. The north block face is the same as that of the Sun Access Envelope as defined in Section 103.1915(K)(2)(a). Transition heights are permitted by a thirty-four (34) degree angle, originating from a height of eight (8) feet above the sidewalk from the opposite street wall. The Transition envelope is shown on Figure F of Chapter X, Article 3, Division 19.

J. [No change.]

K. Parking

1. [No change.]

a. [No change.]

b. [No change in first paragraph.]

(1) [No change.]

(2) For development infilled on sites which contain historic structures, designated pursuant to applicable Municipal Code sections, an exception to below grade parking requirements may be permitted by the President. All other parking requirements shall apply.

(3) [No change.]

c. and d. [No change.]

2. Supplemental Parking

a. and b. [No change.]

(1) and (2) [No change.]

c. Supplemental parking shall meet all Structured Parking criteria of Section 103.1915(K)(1).

3. [No change.]

4. In addition to the criteria of this Division, the President may require any additional measures to ensure land use, circulation and urban design compatibility with all structured, supplemental and surface parking.

L. Signage

1. Initial application for a sign permit shall be made to CCDC, in accordance with the requirements of Land Development Code Chapter 12, Article 9, Division 8 (Sign Permit Procedures) and Chapter 14, Article 2, Division 12 (Sign Regulations). President of CCDC shall review the application and provide a recommendation to the City Manager within 10 calendar days from the date of receipt of the application.

2. In addition to the requirements of Land Development Code Chapter 12, Article 9, Division 8 (Sign Permit Procedures) and Chapter 14, Article 2, Division 12 (Sign Regulations) the following provisions apply:

a. through c. [No change.]

3. [No change.]

Section 8. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1917, to read as follows:

SEC. 103.1917 Plaza Design Guidelines

The President shall refer to the Plaza Design Guidelines of the Centre City Community Plan in the review and approval of any urban open space that is one thousand (1,000) square feet or more in area and any urban open space proposed as an exception to required Street Level Development Standards.

Section 9. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1918, to read as follows:

SEC. 103.1918 County Administration Center Design Zone

A. [No change.]

B. Any development proposal in this zone shall be reviewed by the County Chief Administrative Officer as well as the President regarding the design of the proposal prior to the issuance of a Centre City Development Permit.

C. [No change.]

D. The President shall refer to the Design Guidelines for The Pacific Highway - County Administration Center Design Zone, on file in the office of the Clerk of the Board of the County of San Diego and adopted by the County Board of Supervisors on April 24, 1990, in review and approval of any project within this zone.

Section 10. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1919, to read as follows:

SEC. 103.1919 Alcohol Beverage Sale Permit

Establishments engaged in the sale of alcoholic beverages for "off-site consumption" or "on the premises of sale consumption" shall be required to obtain an alcohol beverage sale permit from the President.

A. through B. [No change.]

C. After considering the facts presented in the application, the President may grant such a permit if it is concluded at the hearing that all of the applicable criteria set forth above and in Section 103.0403(C) (Gaslamp Quarter Planned District) have been met. In granting the Alcoholic Beverage Sale Permit, the President may impose reasonable conditions to ensure compliance with the provisions of this Division.

D. The President may grant, with Police Department comment and review, an Alcoholic Beverage Sale Permit with the following conditions of approval:

1. and 2. [No change.]

3. Allowing uses as identified in Section 103.0408(F) (1)(a) relief from Section 103.0408(F)(3)(a)(3) (Gaslamp Quarter Planned District).

E. The President may revoke an Alcohol Beverage Sale Permit if conditions as set forth in the permit are not being met. Prior to revocation, the permittee shall be given a hearing after ten (10) working days' notice to show cause why the permit should not be revoked.

Section 11. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1925, to read as follows:

SEC. 103.1925 Land Use Classifications

Land use classifications describe one or more uses having similar characteristics but do not list every use or activity that may be appropriate within the classification. The President shall determine whether a specific use falls within one or more of the use classifications described in Table 4 of Chapter X, Article 3, Division 19, entitled LAND

USE CLASSIFICATIONS PERMITTED BY LAND USE DISTRICTS.

A. Residential

1. [No change.]

2. Live/Work Quarters (Loft): An area comprised of one or more rooms or floors in a building originally designed for industrial or commercial occupancy, and new construction, that includes cooking space, sanitary facilities and working space for artists, artisans, and similarly situated individuals and as set forth in Land Development Code Section 141.0311.

3. Living Units: An enclosed space of more than one hundred fifty (150) net square feet which is not required to, but may contain a full or partial kitchen and bathroom and as further described in Section 103.1959.

4. and 5. [No change.]

B. [No change.]

C. Commercial Retail

1. and 2. [No change.]

3. Wholesale/Retail Sales: Establishments engaged in wholesaling and retail sales of food/grocery and retail goods as defined in Section 103.1925(C) including the storage and open-air handling of goods. At least twenty-five percent (25%) of the gross floor area must be devoted to retail sales.

D. Commercial Services

1. through 17 [No change.]

18. Visitor Accommodations.

a. and b. [No change.]

c. Single-Room Occupancy: A dwelling unit within a hotel providing sleeping and living facilities in which cooking and sanitary facilities may be provided within the unit or shared, and as further defined in Land Development Code Section 113.0103. SRO's are considered a commercial use and should follow the appropriate building codes for commercial development.

E. Public and Semi-Public

1. and 2. [No change.]

3. Correctional Placement Centers: Correctional Placement Centers means any building or place that is maintained and operated as a housing facility used for the confinement or placement of adults and as further described in Land Development Code Section 141.0406. This classification includes work furlough facilities, halfway houses and community correction centers.

4. through 11. [No change.]

F. through I [No change.]

Section 12. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1931, to read as follows:

SEC. 103.1931 Purpose and Intent

The purpose of Sections 103.1931 through 103.1936 is to establish policies and criteria that support the land use and transportation objectives of the Centre City Community Plan. These sections are intended to establish standards that will:

A. through E. [No change.]

Section 13. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1932, to read as follows:

SEC. 103.1932 Boundaries

This Division applies to all property located in the Centre City Community Planning Area as shown in Figure 1 of this Division, except for lands located within the jurisdiction of the San Diego Unified Port District which are subject to the provisions of the San Diego Port District Act, the Tidelands Trust and the California Coastal Act of 1976.

Section 14. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1933, to read as follows:

SEC. 103.1933 Administration and Permits

A. Administration

The President of Centre City Development Corporation or his or her designee (the "President") shall administer this Ordinance.

B. Permit Required

1. The provisions of this Division shall apply to any construction, erection, conversion, establishment, alteration, enlargement, or change in use in any area of Centre City identified in Section 103.1932 that results in an increase in dwelling units, rooms, off-street parking, or an increase in the gross square footage of a building by greater than twenty percent (20%) or five thousand (5,000) square feet, whichever is greater.

2. and 3. [No change.]

4. The Development Services Department or the Engineering Department shall not issue any permit for the construction, erection, conversion, establishment, alteration, enlargement or change in use of any building or structure in any area of Centre City identified in Section 103.1932 until approval of a Centre City Parking Permit by the President has been obtained by the owner or applicant.

C. Use of Existing Structures

The strict application of the parking requirements contained in Section 103.1936(A) and (B) as they apply to the conversion, alteration, or enlargement of existing structures may not meet the purpose and intent of this Division. Therefore, the President may grant exception to the parking requirements of Section 103.1936(A) and (B) for the conversion, alteration, or enlargement of existing structures if all of the following conditions are met:

1. through 4. [No change.]

D. Other Applicable Planning and Zoning Regulations

1. In evaluating and reviewing the appropriateness of any development for which a permit is required under this Division, the President shall utilize the provisions of this Division and the following as they apply and as they may be subsequently amended:

a. through i. [No change.]

2. [No change.]

3. The following provisions of the Land Development Code related to off-street parking are superseded by the provisions of this Division: Sections 142.0520, 142.0525, 142.0530, 142.0535, 142.0540, 142.0545, 142.0555, 142.0560(a)(2). All other

provisions of Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations) apply.

4. and 5. [No change.]

Section 15. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1934, to read as follows:

SEC. 103.1934 Application Procedures

Concurrent with the application for a Centre City Development Permit, a Marina Planned District Permit, or a Gaslamp Quarter Permit, the project applicant shall submit to the President or designated representative a Centre City Parking Permit application which is in conformance with the provisions of this Division.

Section 16. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1935, to read as follows:

SEC. 103.1935 Project Review Procedures

A. Administrative Review

Upon receipt of a complete Centre City Parking Permit application, the President shall conduct an administrative review. No public hearing is required for this review.

B. Permit Issuance

If the President approves a Centre City Parking Permit, the application shall be referred to Building Inspection or the City Engineer for any other action as necessary.

C. Permit Denial

If the President denies a Centre City Parking Permit, he or she shall issue findings in writing of the nonconformance with the provisions of this Division.

D. [No change.]

E. Permit Revocation

The President at any time may revoke a Centre City Parking Permit issued under this Division for failure to comply with the conditions of approval. Prior to such a revocation, the applicant shall be given a hearing after ten (10) calendar days' notice to show cause why the permit should not be revoked.

Section 17. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1936, to read as follows:

SEC. 103.1936 Off-Street Parking Requirements

A. Minimum Off-Street Parking

1. [No change.]

2. Minimum off-street parking requirements apply to residential and single room occupancy land uses and shall be as follows:

a. and b. [No change.]

c. The minimum number of parking spaces for Living Units shall be 0.9 spaces per living unit.

d. through g.

3. and 4. [No change.]

B. and C. [No change.]

Section 18. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1952, to read as follows:

SEC. 103.1952 Definitions

For purposes of Sections 103.1951 through 103.1958, the following definition applies:

"Net Floor Area" means the total horizontal square footage of existing, proposed or potential floors of building(s), as defined in Land Development Code Section 113.0103 for Gross Floor Area, but not including space devoted to parking and common circulation and mechanical equipment areas such as enclosed exterior stairwells, enclosed exterior elevator shafts, interior elevator shafts, interior stairwells, ramps and mechanical equipment rooms.

Section 19. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1953, to read as follows:

SEC. 103.1953 Boundaries

Sections 103.1951 through 103.1958 apply to all property located in the Centre City Community Planning Area shown in Figure 1 of this Division except for lands located within the jurisdiction of the San Diego Unified Port District which are subject to the provisions of the San Diego Port District Act, the Tidelands Trust and the California Coastal Act of 1976.

Section 20. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1955, to read as follows:

SEC. 103.1955 Purpose and Use of Centre City Transit and Parking Improvement Fund

A. and B. [No change.]

C. The provisions of Sections 103.1951 through 103.1058 shall apply to any

non-residential construction, erection, conversion, establishment, alteration, enlargement, or change in use in any area of Centre City identified in Section 103.1953 that results in an increase in the Net Floor Area of a building by greater than twenty percent (20%) or five thousand (5,000) square feet, whichever is greater.

Section 21. That Chapter X, Article 3, Division 19, of the San Diego Municipal Code is amended by amending section 103.1959, to read as follows:

SEC. 103.1959 Conditional Use Permit for Living Units

A. PURPOSE AND INTENT

It is the purpose of the living unit ordinance to create a rental and homeownership demonstration program in the Centre City Community Planning Area for lower income people. This new type of housing unit has been made possible by enabling legislation enacted by the State of California.

B. PERMITTED LOCATIONS

Not to exceed three living unit projects may be permitted by a Conditional Use Permit in the Centre City Community Planning Area.

C. DEFINITIONS

1. LIVING UNIT means an enclosed space of more than 150 net square feet which is not required to, but may contain a full or partial kitchen and bathroom.
2. LIVING UNIT PROJECT means a building containing 12 or more living units.
3. COMPLETE BATHROOM means a room containing all of the following: a toilet, sink, and shower or tub. A partial bathroom is missing at least one

of the above facilities.

4. A FULL KITCHEN means a room containing all of the following: a sink, refrigerator and stove, range top or oven. A partial kitchen is missing at least one of the above facilities.

5. COMMON INDOOR SPACE means all usable interior common areas not used for circulation or service facilities. Common indoor space includes lobby, recreation room or reading rooms.

6. LIVING UNIT TRANSIT CORRIDOR means the area within 500 feet of existing accessible public bus lines having a fifteen minute level of service frequency as established by the Metropolitan Transit Development Board (MTDB) identified on Map No. C-794, on file in the office of the City Clerk.

7. LIVING UNIT TRANSIT NODE means the area within 500 feet of existing and proposed trolley stops. Proposed trolley stops are those that have been approved for development by the MTDB with identified funding available identified on Map No. C-794, on file in the office of the City Clerk.

8. LOWER INCOME means any household whose income is below 80 percent of the median household income for the region, and as adjusted for a one-person household.

D. DEVELOPMENT CRITERIA

Living unit projects in The City of San Diego may be permitted by Conditional Use Permit subject to the provisions of this Section and are not subject to existing residential density standards.

1. Unit Requirements.

a. Each unit within a living unit project must have at least 150 square feet of net floor area. The average size of all living units may not exceed 275 square feet. When a living unit exceeds 400 square feet in area, existing underlying zone density and parking standards for a one bedroom apartment unit apply.

b. Maximum occupancy is two persons.

c. A full kitchen is not required in every living unit. However, a kitchen sink with garbage disposal and counter top is required in every living unit. The counter top must be a minimum of 12 inches deep by 24 inches wide.

d. A refrigerator and microwave oven must be provided in, or be available from the permittee for every living unit. Electrical outlets for these appliances must be provided in proximity to the sink and counter top.

e. Each living unit must be pre-wired for phone and cable television service.

f. A complete bathroom is not required in every living unit. However, each living unit must include a private toilet. If a private toilet is not enclosed within each living unit, the permittee shall screen the toilet.

g. A closet and designated storage space is required in every living unit.

h. Handicap access facilities are required as stated in applicable state or local law. However, at least one handicapped-accessible unit is required for every 25 units.

2. Project Requirements.

a. Showers/Bathtubs. Each living unit that is not provided with a private shower and/or bathtub must be served by a shared shower (and optionally, a bathtub). Shared bathing facilities must be provided at a ratio of at least one facility for every five units, or fraction thereof, which lack a private bathing facility. Each shared bathing facility must be on the same floor as the units it is intended to serve, and must be directly accessible from a common area or hallway.

b. Each shared bathroom facility must have an interior lockable door.

c. At least one janitorial closet with sink is required on each floor.

d. Laundry facilities must be provided in a separate room at the ratio of one washer and one dryer for every 15 units or fractional number thereof. At least one washer and one dryer is required in every living unit project. The laundry facility must be located near the common indoor space. Washers and dryers may be coin operated.

e. A cleaning supply storeroom and/or utility closet with at least one laundry tub with hot and cold water must be provided on each floor of the living unit building.

f. Common indoor space is required in each living unit project. For each living unit sized as follows, minimum common indoor space requirements per living unit shall be:

Living Unit Size	Common Indoor Space Requirements Per Living Unit
160-169 square feet	4.5 square feet
170-179 square feet	4.0 square feet
180+ square feet	3.5 square feet
	3.0 square feet

g. In no case must common indoor space be less than 200 square feet in any living unit project.

h. All living unit buildings for rent must have either a front desk with a full view of the entry area, staffed 24 hours a day, seven days a week, or an operational outdoor entry intercom system with intercoms in each living unit and the manager's apartment.

i. All living unit buildings must be equipped with fully automatic, Class I, fire sprinkler systems.

In living unit buildings up to and including three stories in height, the Building Official shall consider alternate equivalents when a fire sprinkler system is provided. The fire sprinkler system must be provided pursuant to this section and it must not otherwise be required by any other applicable code or regulation. Such alternatives may include but are not limited to the following items:

(1) Fire-rated stair enclosures may have 20-minute, fire-rated, self-closing, tight-fitting, smoke and draft control assemblies.

(2) Exit courts may discharge into one-hour, fire-resistive corridors.

(3) No requirements for 20-minute, fire-rated, smoke and

draft control assembly separation between elevator shafts and one-hour, fire-rated corridors.

(4) No requirements for Class II standpipe systems (fire hose cabinets).

(5) Reduction of standpipe size requirement from four-inch to two and one-half inch diameter or equivalent flow.

(6) The use of plastic pipe as an alternate to cast iron pipe.

The determinations made pursuant to this subsection by the Building Official shall be on a case-by-case basis and are appealable exclusively to the Board of Building Appeals and Advisers.

j. A manager's unit is required in every living unit project. The manager's unit must be a complete dwelling unit and so designated on all plans.

k. A supply room must be provided adjacent to the manager's unit.

l. All living units must have posted in the common indoor space area a notice from the City regarding contact procedures to investigate housing code violations.

m. An adequate number of trash cans with close fitting covers must be provided on each floor. Management controlled locked trash chutes must be provided on every floor above ground level.

n. In every living unit lobby area, pay telephones, a drinking fountain and mail boxes must be provided.

o. The architecture creates a livable space in a small area with

multi-use features and incorporates security and acoustic features, particularly in the light wells, if any.

3. Parking Requirements.

a. Base Parking Requirement. The number of required off-street parking spaces is 0.90 per living unit. If a living unit is rent restricted at monthly rentals affordable to an individual earning 65 percent of the median area income or less, the number of required off-street parking spaces is 0.70 per unit.

b. At the request of the applicant and with the approval of the Development Services Director and City Engineer, City Manager in-lieu-of fees may be used when a public improvement project providing additional parking and found to be in conformance with the community plan is within one-quarter-mile of the subject property. The total number of spaces which may be provided for through this provision is equivalent to 50 percent of the required base and supplemental parking as calculated after any permitted reductions. The fee is 150 percent of the estimated cost per net additional space required to be provided for by financing of the identified public improvement project.

c. An exemption from parking requirements of Section 103.1959(D)(3) shall be considered by the City Council for projects in designated Redevelopment Areas and granted only if the City Council finds that the project will contribute to the health, safety, and general welfare and that its contribution will exceed any negative impact caused by implementation of the project.

4. Management Plan. For living unit projects for rent, a management plan

must be submitted for review with the living unit permit application. The Management Plan must contain management policies, operations, rental procedures, maintenance plans and staffing needs. An on-site, 24-hour manager is required in every living unit project. The rental procedures must allow for both weekly and monthly tenancies and specify deposit requirements for each type of tenancy.

E. RENT RESTRICTIONS

Rent restrictions are determined by the base number of vehicular parking spaces provided under Section 103.1959(D)(3)(a). In any event, the applicant shall file an affordable rent agreement with the Housing Commission and must record the agreement in the office of the County Recorder before a building permit may be issued. The agreement shall be enforced pursuant to Section 103.1959(G)5. No living unit may be occupied by or sold to a person or persons whose income exceeds 80 percent of median area income as most recently defined by the Department of Housing and Urban Development (HUD) for the Standard Metropolitan Area of San Diego, California, as adjusted for a one-person household. All living units shall be rent restricted at a rate which when combined with costs for electricity, gas, and water does not exceed 22.5 percent of median income for a single person household. Additional limitations on rent may be made if public subsidies are provided. An exemption under this section shall be considered by the City Council for projects in designated Redevelopment Areas and granted only if the City Council finds that the project will contribute to the health, safety and general welfare and that such contribution will exceed any negative impact created by implementation of the project.

F. OWNER OCCUPANCY REQUIREMENTS AND RESALE LIMITATIONS

If condominium living units are offered for sale, they may be sold or resold only to owner-occupants. No living unit may be sold to a person or persons whose income exceeds 80 percent of median area income as most recently defined by the Department of Housing and Urban Development (HUD) for the Standard Metropolitan Area of San Diego, California, as adjusted for a one-person household. If an owner cannot sell after a 90-day listing period, the property must be listed with the Housing Commission for rental at cost to cover mortgage, taxes, association fees and insurance.

G. ADMINISTRATION

1. Living Unit Conditional Use Permit Required. A Living Unit Conditional Use Permit is required before an applicant may apply for any other City required permit. No person may begin any construction or remodeling to provide living units without first obtaining a Living Unit Conditional Use Permit in accordance with this section.

2. Application. An applicant must apply for a Living Unit Conditional Use Permit in accordance with Land Development Code Section 112.0102. The application must also include:

a. Copies of fully dimensioned floor plans and specifications indicating living unit sizes and electrical outlets as required by Paragraph E of this Section.

(1) The plans shall include any proposals that will require an encroachment permit on the public right-of-way.

(2) The plans shall specify whether the project is to be a rental or a condominium project.

b. Copies of a Management Plan to include management policies, proposed rent schedule, rental procedures, maintenance and cleaning, and staffing.

c. Copies of the conditions, covenants and restrictions (CCR's) which stipulate that units for sale may be sold or resold only to owner-occupants, and which stipulate the terms of resale. If an owner cannot sell after a 90-day listing period, the property must be listed with the Housing Commission for rental at cost to cover mortgage, taxes, association fees and insurance.

d. A location map pursuant to the requirements in Section 103.1959(B).

3. An application for a Living Unit Conditional Use Permit may be approved, conditionally approved or denied by the President. The President's decision may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506.

4. Building Permit Issuance. If an application for a Living Unit Conditional Use-Permit has been approved, and the rent agreement has been recorded, the City Manager is authorized to issue any other requisite permits for the project, provided it conforms to all other regulations and ordinances of the City of San Diego.

5. Enforcement.

a. Violations. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Section or the Living

Unit Conditional Use Permit shall be guilty of a misdemeanor as defined in Chapter One of the San Diego Municipal Code. Any person convicted of a misdemeanor under the provisions of this code shall be punished in accordance with Section 12.0201. Further, the imposition of civil penalties, pursuant to Sections 12.0801 through 12.0810 of the Municipal Code is an alternative method of enforcement. Each such person shall be guilty of a separate offense for each and every day during which any violation of any provision of the Living Unit Ordinance is committed, continued, or permitted by such person and shall be punished accordingly.

b. Low-Income Occupancy and Rents. The staff of the Housing Commission has the responsibility for the verification, certification and enforcement of lower income occupancy and the monitoring of living unit rents and shall report findings on an annual basis to the City Council. Living unit owners shall provide appropriate documentation to the Housing Commission on an annual basis to verify compliance with requirements defined in Section 103.1959(E).

c. Planning Powers. The City Manager shall invoke the powers of enforcement and inspection as provided for in Land Development Code Chapter 12 (Land Development Reviews) for any violation of this Section except for those responsibilities delegated to the Housing Commission or the Building Official.

d. Housing Inspection. The Building Official or assigned representative shall invoke the powers of enforcement and inspection as provided for in Section 98.0104 of the Municipal Code for all matters normally enforced by the City Manager.

e. Revocation of the Living Unit Conditional Use Permit and Conversion Provisions. Failure of owners to comply with ongoing conditions may result in the revocation of the Living Unit Conditional Use Permit in accordance with Land Development Code Chapter 12, Article 1, Division 3 (Violations of the Land Development Code and General Remedies). A Living Unit Conditional Use Permit may be revoked if any one or more of the following grounds are found:

(1) That the Living Unit Conditional Use Permit is being or has been exercised contrary to the provisions of the permit or of this Section or in violation of any applicable licenses, permits, regulations or laws;

(2) That the use for which the Living Unit Conditional Use Permit was obtained is being or has been exercised so as to be detrimental to the public health, safety, or general welfare or so as to constitute a public nuisance; or

(3) That the property or any structure thereon subject to the Living Unit Conditional Use Permit has been abandoned or the use authorized by the permit has ceased for a period exceeding 12 months and no time extension has been granted for a longer time.

(4) That restricted rents are not in compliance with the rent agreement filed with the Housing Commission. If the finding is made that the rent agreement has been violated, the permit holder shall make restitution of the amounts in excess of those provided by the Rent Agreement to the tenants and shall pay an equal amount to the lease/sale proceed funds administered by the Housing Commission, in addition to any remedies provided by the Rent Agreement.

f. Civil Actions. The City may institute a civil action to recover in damages all rents paid to the owner if the owners of condominium units fail to comply with the owner occupancy requirements of Section 103.1959(F).

g. Review Procedures.

The San Diego Housing Commission shall report to the City Council on an annual basis the location and number of living units that have been completed in the previous year, the monthly rents of each living unit, the monthly income of living unit residents, the number of vehicles owned by residents and the adequacy of management services.

Section 22. 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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