

ORDINANCE NUMBER O- **18481** (NEW SERIES)

ADOPTED ON **APR 07 1998**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 12 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 103.1203, 103.1204, 103.1205, 103.1206, 103.1207, 103.1208, 103.1209, ALL RELATING TO LA JOLLA PLANNED DISTRICT.

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

Section 1. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1203, to read as follows:

**SEC. 103.1203 Applicable Regulations and Definitions**

A. APPLICABLE REGULATIONS

Where not otherwise specified in this Division, the following provisions 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)

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

#### B. DEFINITIONS

[No change in first paragraph.]

The definitions in Land Development Code Section 113.0103 apply unless there is a conflict with the definitions in this Division. Where a conflict exists the definitions in this Division prevail.

1. through 13. [No change.]

14. Gross Floor Area

[No change in first and second paragraphs.]

Gross area includes:

a. and b. [No change.]

c. Half stories (attics), as described in Land Development Code Section 113.0103 and Chapter 11, Article 3, Division 2 (Rules for Calculation and Measurement) basements and cellars. Areas of basements, and cellars utilized exclusively for parking are not included in the calculation of gross floor area.

d. Penthouses as described in Land Development Code Section 113.0103 and Chapter 11, Article 3, Division 2 (Rules for Calculation and Measurement) shall be included in gross floor area, except when meeting the following criteria:

(1) through (3) [No change.]

e. [No change.]

15. Ground Floor [No change.]

16. Height

Notwithstanding the definition of height in Land Development Code Section 113.0103, the term height means the vertical distance between any point on any structure and the preexisting grade or finished grade, whichever is lower, directly below it.

Preexisting grade means that grade level which existed prior to the start of any site preparation, grading or construction related to the project being proposed. See Appendix B of Municipal Code Chapter X, Article 3, Division 12.

17. Heritage Structure

A heritage structure means any building or structure which is found by the City of San Diego Historical Resources Board to be worthy of preservation.

18. through 34. [No change.]

Section 2. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1204, to read as follows:

**SEC. 103.1204 Project Review Regulations**

**A. ACTIVITIES REGULATED**

No building structure or improvement or portion thereof shall be erected, constructed, converted, established, altered, removed, demolished or enlarged, nor shall the use of any building or structure be changed (as defined in this Division) nor shall the size of any such building or structure be increased; nor shall any such building, structure or improvement be used or occupied unless it shall comply with the requirements of this Division. No permit may be issued for the erection, construction, conversion, establishment, alteration, removal, demolition or enlargement of any building, structure or improvement, or portion thereof, or for the change of use of any building or structure in any portion of the La Jolla Planned District until approval of such permit by the City Manager has been obtained in compliance with the provisions of this Division.

Any permit application which involves the demolition or removal of an existing building or structure shall be reviewed by the City Manager to determine whether the structure in question merits designation as a historical resource consistent with the requirements of Land Development Code Chapter 12, Article 3, Division 2 (Designation of Historical Resources Procedures) and Chapter 14, Article 3, Division 2 (Historical Resources Regulations). The City Manager shall make such determination within ten (10) working days of receipt of said application. If the City Manager does not make the determination within this specified period, the building or structure shall be deemed not

to be a potential historical structure and shall be construed to have received City Manager approval for demolition or removal. If the City Manager finds evidence that a potential may exist for the site's designation as a historical resource, the permit application shall not be approved until the Historical Resources Board has evaluated and acted on the site's historical significance as required by Land Development Code Chapter 12, Article 3, Division 2 (Designation of Historical Resources Procedures) and Chapter 14, Article 3, Division 2 (Historical Resources Regulations). The Historical Resources Board shall hold a noticed hearing which may be continued to the next consecutive meeting, but in no case shall the Historical Resources Board review process exceed ninety (90) calendar days. The Historical Resources Board shall make its decision based on a historical and architectural report consistent with the Board's guidelines including a detailed list of source material, and specific references, to be used to make the finding for site designation. The Board shall make findings as required by Land Development Code Chapter 12, Article 3, Division 2 (Designation of Historical Resources Procedures) and Chapter 14, Article 3, Division 2 (Historical Resources Regulations). The decision of the Historical Resources Board shall be based on the following evidence which shall be provided in writing:

1. and 2. [No change.]

If the Historical Resources Board acts affirmatively to designate a site, the site shall be subject to the requirements of Land Development Code Chapter 12, Article 3, Division 2 (Designation of Historical Resources Procedures) and Chapter 14, Article 3, Division 2 (Historical Resources Regulations).

The provisions of this section do not apply to the following:

1. Any building or structure found by the City Manager to present a hazard to public health or safety, and for which an emergency permit for demolition must be issued; or

2. Any permit approved as part of a discretionary development permit submitted, reviewed and approved in accordance with this Division. Such development application shall include an environmental document prepared in accordance with the California Environmental Quality Act which describes and addresses the historic/architectural significance of the property. If the property is found to have potential historical or architectural value, such report shall be reviewed by the Historical Resources Board for the purposes of recommending whether the proposed project should be approved, modified or denied based on the importance of the existing building(s) or structure(s).

3. Any demolition permit for sites or buildings which have been previously considered for designation by the City's Historical Resources Board.

In addition, the Department of Building Inspection shall not issue any permit for the demolition, alteration, reconstruction, or other change of any Existing Cultural Use within Zone 6, or any portion thereof, until a Special Use Permit has been approved or conditionally approved by a Hearing Officer in accordance with the provisions of Section 103.1208 of this Division.

Approval by a decision maker is not required for interior modifications or repairs. Approval of the City Manager is required for all exterior modifications including

painting. All painting shall be in accordance with the color palette listings (see Appendix C).

B. and C. [No change.]

#### D. APPLICATION PROCEDURE

An application for the above permits shall be made in accordance with Land Development Code Section 112.0102.

Contents of application shall include the following:

1. through 3. [No change.]

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

5. [No change.]

6. Any changes to approved plans shall be resubmitted to the City Manager clearly indicating such change(s). Any construction performed that is not consistent with approved plans is subject to removal.

#### E. DEPARTMENT REVIEW

The City Manager is responsible for project review and approval, consistent with this District's regulations. Projects that meet these Planned District regulations, and are not subject to a discretionary decision, may be approved or denied, in accordance with Process One, upon completion of the City Manager's review.

#### EXCEPTION:

Improvements requiring encroachment permits, shall be reviewed by the City

Manager, and may be approved or denied by the City Engineer in accordance with the regulations of this Division upon receiving the City Manager's recommendations.

#### F. WRITTEN DECISION

Upon the granting of any variance, Special Use Permit, tentative, final or parcel map, or any other development permit, the City Manager shall file with the office of the City Clerk and when applicable, with the County Recorder of San Diego County, in accordance with Land Development Code Section 126.0107, a detailed set of specific written findings consistent with this Division's Purpose and Intent (Section 103.1201) establishing the basis for the decision, and identifying the benefits and impacts to the community.

#### G. ENCROACHMENT PERMIT

Public improvements and encroachment permits shall be reviewed in accordance with this section by the City Manager for consistency with this Division. These permits are subject to approval by the City Engineer.

#### H. PERMIT TIME LIMITS AND TIME EXTENSION

A valid permit approved under this Division expires and is void thirty-six (36) months after the Date of Final Action of the permit if the permit is not utilized as set forth in Land Development Code Section 126.0108 and Section 126.0109. The expiration date of a valid permit approved under this Division may be extended in accordance with Land Development Code Section 126.0111, provided however all of the following requirements are met:

1. through 3. [No change.]



4. Exception: Permits that are approved by the City Engineer are not subject to this provision.

I. COASTAL HOUSING DETERMINATION OF RESIDENTIAL USE  
FEASIBILITY

[No change in first and second paragraphs.]

The San Diego City Council has authorized the City Manager to make the initial determination as to the feasibility of residential use where such determinations are required by Government Code Section 65590 (c).

1. Government Code Section 65590(g) contains the following definitions:

a. through c. [No change.]

The requirements of the statute must be met in all housing projects within the Coastal Zone, even if no other local government discretionary action is required. The City Manager will not approve permit applications which have not already satisfied the requirements of Government Code Section 65590. There are no exemptions provided for small projects, nor is occupancy or income level of tenants a factor that can be considered as part of the Section 65590 (c) review.

2. [No change.]

Section 3. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1205, to read as follows:

**SEC. 103.1205 Permitted Uses and Density Regulations**

The following regulations apply to all the zones and are not subject to modification or variance except as noted.

A. PERMITTED USES/DENSITY REGULATIONS

[No change in first paragraph.]

1. through 8. [No change.]

9. Other Uses.

[No change in first paragraph.]

a. through d. [No change.]

e. Other uses designated in listed in Section 103.0301 that are permitted in other commercial zones of the City under a Conditional Use Permit are permitted in Zones 1, 2, 3 and 4 provided they are processed as a Special Use Permit and comply with all the requirements and standards of SEC. 103.1208 of this Division.

10. Previously Conforming Uses.

Land Development Code Chapter 12, Article 7, Division 1 (General Review Procedures for Previously Conforming Premises and Uses) applies except that expansion or enlargement of previously conforming uses is not permitted. Any change in building facade materials or colors shall conform to the provisions of this Division.

11. [No change.]

B. GROUND FLOOR AND STREET FRONTAGE REQUIREMENTS

1. RETAIL - Retail uses are required on the ground floor as follows:

| Zone | Minimum Percent of<br>Gross Ground Floor Area | Minimum Percent of Structure's<br>Street Frontage Length |
|------|---|--|
| 1    | 50%*  | 75%  |
| 2    | No minimum required                           | No minimum required                                      |

|   |                |                |
|---|----------------|----------------|
| 3 | 50%            | 50%            |
| 4 | 50%            | 50%            |
| 5 | Not applicable | Not applicable |
| 6 | Not applicable | Not applicable |

\*Access to the retail spaces from loading areas or alleys shall be provided where available.

2. through 3. [No change.]

C. through D. [No change.]

Section 4. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1206, to read as follows:

**SEC. 103.1206 Property Development Regulations**

[No change in first and second paragraphs.]

**A. MINIMUM LOT AREA AND DIMENSIONS**

1. [No change.]

2. Exception.

Any lot which qualifies under the definition of a lot as set forth in this Division and which does not comply in all respects with the minimum lot dimensions specified herein may nevertheless be used as permitted and otherwise regulated by the provisions applicable to this Division, consistent with Land Development Code Section 113.0103 and Section 113.0237.

3. [No change.]

**B. YARD, SETBACKS AND FENCES**

[No change in first paragraph.]

1. through 6. [No change.]

7. Walls and Fences

Zones 1, 2, 3 and 4 -- Refer to SEC. 103.1206, Paragraph I. and K. for requirements in these zones.

Zones 5 and 6 -- Walls and fences within a required front yard or street side yard shall not exceed three feet in height above the adjacent sidewalk. Such walls and fences shall be architecturally compatible with the main buildings on the premises and shall be constructed of wood, brick, stucco, wrought iron, natural unpolished stone, poured concrete, slumpstone block, split-faced block or a combination of these materials. Chain link is expressly prohibited. All other walls and fences on the premises shall conform to Land Development Code Chapter 14, Article 2, Division 3 (Fence Regulations).

8. [No change.]

C. MAXIMUM HEIGHT

The maximum height of any point on any structure shall be thirty (30) feet. Height shall be measured in accordance with Land Development Code Section 113.0270 with the exception of Section 113.0270(a)(4) and (5).

See Appendix B of Municipal Code Chapter X, Article 3, Division 12.

In addition to the height limit criteria above, the following areas within the planned district, as graphically depicted on Drawing No. C-766 on file in the office of the City Clerk, shall be limited to structures containing a maximum of two stories:

1. through 5. [No change.]

The definition of "story," as it pertains to this section, is identical to that contained in Land Development Code Section 113.0103.

D. [No change.]

E. LANDSCAPING

Please refer to Appendix B for illustrations of the requirements for this Section.

Prior to the use or occupancy of any lot or premises at least one of the following landscaping requirements must be met.

1. through 5. [No change.]

6. Zone 6

All required yards shall be fully landscaped in accordance with City-wide Landscape Regulations of Land Development Code Chapter 14, Article 2, Division 4 (Landscape Regulations).

7. Parking Lots -- Refer to SEC. 103.1207, Paragraph G. for requirements.

8. Landscaping Plans and Maintenance:

a. Prior to the issuance of any building permits, a complete set of landscaping and irrigation plans shall be submitted to the City Manager for approval.

The landscaping and irrigation plans shall be in conformance with the requirements of this section and with the Landscape Guidelines of the Land Development Manual.

b. All required landscaped areas shall be permanently irrigated and maintained in accordance with the Landscape Guidelines of the Land Development

Manual.

9. [No change.]

F. through M. [No change.]

#### N. RESIDENTIAL DESIGN CRITERIA

Exclusively residential development must comply with all of the following standards:

1. The proposed use must comply with all development regulations of Secs. 103.1205, 103.1206, 103.1207, 103.1208 and 103.1209 of this Division.

2. through 5. [No change.]

Section 5. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1207, to read as follows:

#### **SEC. 103.1207 Parking and Transportation Regulations**

##### A. OFF-STREET PARKING REGULATIONS

Please refer to Appendix B for illustrations of the requirements of this Section 103.1207.

1. Every premises used for one or more of the permitted uses listed in Section 103.1205 shall be provided with permanently maintained, off-street parking spaces in a parking area or private garage on the same premises in conformance with Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations).

2. Notwithstanding Land Development Code Section 142.0530(b), the minimum parking requirements apply to outdoor eating and drinking areas that are not in the public right-of-way.

3. In Zones 1,2,3, and 4, a minimum of 60 percent of the required office parking shall be designated exclusively for employee use free of charge. These spaces may not be used by non-employees of the building or rented to anyone.

4. In Zones 1, 2, 3, and 4, a minimum of 20 percent of the required parking for banks and savings and loans shall be designated exclusively for employee use free of charge. These spaces may not be used by non-employees of the building or rented to anyone.

B. [No change.]

#### C. REHABILITATION PARKING REQUIREMENTS

[No change in first paragraph.]

1. If the project rehabilitation involves retail use, the parking requirement will be limited to providing parking off the alley. One parking space shall be required per full ten feet of vacant alley frontage area. If no alley frontage exists no parking shall be required on-site, provided however, that the property owner shall sign an agreement, satisfactory to the City Manager, not to oppose the formation of a future parking or transit district. The agreement shall not include the property owner's right to protest the amount levied subsequent to the establishment of the district or districts. The agreement shall be recorded with the County Recorder and shall run with the land.

2. through 5. [No change.]

D. [No change.]

#### E. SHARED PARKING FACILITIES

Sharing of parking facilities may be approved or denied by the City Manager in

accordance with Process One pursuant to Land Development Code Section 142.0545.

#### F. TANDEM PARKING

Tandem parking shall be permitted under this ordinance for residential uses, small lot development, minor additions and rehabilitation projects consistent with Land Development Code Section 142.0555.

#### G. SURFACE PARKING LOT DESIGN

Surface parking lots or street level roof parking for underground parking structures, shall not cover more than 10,000 square feet in area. If more than 10,000 square feet is required, the additional parking shall be provided underground. Surface parking areas fronting on a street shall be screened with a landscaped buffer of not less than six feet in width between the public right-of-way (sidewalk) and the parking area. The interior portions of surface parking areas with more than one parallel aisle or 7,000 square feet in area shall be landscaped. Parking lot landscaping shall conform to Land Development Code Chapter 14, Article 2, Division 4 (Landscape Regulations) (see Appendix B).

#### H. [No change.]

Section 6. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1208, to read as follows:

#### **SEC. 103.1208 Special Use Permit Development Standards**

A. A Special Use Permit (SUP) is required for any of the following projects described in Sections 103.1208(B) through 103.1208(N). An application for a Special Use Permit 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 Special Use Permit if the following findings are made in addition to the findings specified for particular uses:

1. through 3. [No change.]

#### B. HERITAGE STRUCTURE PRESERVATION AND RE-USE

[No change in first paragraph.]

1. The structure shall be evaluated by the Historical Resources Board which shall make a finding that the structure is worthy of preservation if one or more of the following appropriate findings can be made that:

a. through d. [No change.]

2. The project site and structure's rehabilitation proposals shall be reviewed by the Historical Resources Board for consistency with the building's and project site's design and historical conservation elements.

3. Development Regulations are the same as Sections 103.1205, 103.1206 and 103.1207 of this Division except as follows:

a. The project may be exempt from the use and density requirements of Section 103.1205 of this Division provided it can be proven that it is economically imperative to provide relief from such land use requirements. A Hearing Officer may approve, conditionally approve or deny, 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 or conditionally approve the exemption if a finding can be made that the use and density will not negatively impact surrounding properties and the neighborhood, and will be consistent with the community plan.

b. [No change.]

c. Landscaping, planting and vegetation standards shall be consistent with Secs. 103.1206 through 103.1208 of this Division, except when these standards conflict with heritage structure preservation or existing matured vegetation on site. The new landscaping proposed shall compliment the existing vegetation and landscape design. The Historical Resources Board recommendations shall be considered in the City Manager's decision.

#### C. EXISTING CULTURAL USE WITHIN ZONE 6 DEMOLITION

A Hearing Officer may approve, conditionally approve or deny, in accordance with Process Three, a Special Use Permit for the demolition, alteration, reconstruction or other change of any portion of an Existing Cultural Use within Zone 6. The permit may be approved or conditionally approved only upon the specific finding that such demolition, alteration, reconstruction or change is being made in conjunction with a permitted addition, enlargement, restoration or rearrangement of a permitted cultural use within Zone 6.

D. [No change.]

#### E. OUTDOOR SALES AND DISPLAYS AND STORAGE REGULATIONS IN ZONES 1, 2, 3 AND 4 ONLY

1. The following listed merchandise sold on the premises may be

displayed outdoors during hours of business operation without screening walls or fences except along property lines abutting residentially-zoned lots:

Flowers and plants.

Food products.

Handcrafted products and goods.

Artwork and pottery.

Any other merchandise which the City Manager may find to be similar in character, type or nature to the merchandise listed in this Paragraph and which will not cause an adverse visual impact on the neighborhood.

2. [No change.]

3. All walls and fences required in Paragraph 2 of this Section shall be a minimum of six feet in height except along the street frontage, where height may vary. Walls and fences shall be constructed and maintained with not less than 50 percent of the surface area impervious to light. The location, materials and design of required walls and fences shall be subject to approval by the City Manager. 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 Land Development Code Chapter 14, Article 2, Division 3 (Fence Regulations).

4. When landscape screening is used to enclose areas used for outdoor display or storage, a three-foot high solid (at time of planting) landscape screening proposal shall be submitted to the City Manager for review and approval. The landscape

screening shall be developed in conformance with Land Development Code Chapter 14, Article 2, Division 4 (Landscape Regulations).

5. [No change.]

F. FAST FOOD RESTAURANTS IN ZONES 1, 2, 3 AND 4 ONLY

Fast food restaurants may be permitted if all of the following standards are met:

1. through 4. [No change.]

5. Hours of operation shall be limited to daylight hours and until 12:00

Midnight or earlier as established by the City Manager at the public hearing.

6. through 8. [No change.]

G. [No change.]

H. ABOVE GROUND PARKING STRUCTURES

Aboveground parking structures may be permitted consistent with the zone restrictions contained in SEC. 103.1205, Paragraph A.8.b, by Special Use Permit only, provided the building or structure does not exceed a floor area ratio of 2.5 and the following conditions are met:

1. through 6. [No change.]

I. through K. [No change.]

L. OTHER USES PERMITTED UNDER A SPECIAL USE PERMIT

Private clubs, fraternal organizations and lodges, churches, civic buildings, public and private libraries, schools, museums and other uses allowable under Conditional Use Permits in other commercial and residential zones of the City, as identified in Section 103.0105, and any other discretionary permits issued by the City Manager shall be

permitted subject to the processing of a Special Use Permit under the terms of this Section. Development standards for such a permit shall be regulated by Land Development Code Chapter 14, Article 1, Division 1 (Separately Regulated Use Regulations) as supplemented and superseded by Secs. 103.1204, 103.1206, 103.1207 and 103.1209 of this Division.

M. [No change.]

Section 7. That Chapter X, Article 3, Division 12, of the San Diego Municipal Code is amended by amending section 103.1209, to read as follows:

**SEC. 103.1209 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. Final approval for encroachment permits shall be by the City Engineer based on the City Manager's recommendations of consistency with this Division (see Appendix D.).

**A. DRIVEWAYS AND CURB CUTS**

Driveways and curbcuts shall be provided in accordance with Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations).

B. and C. [No change.]

**D. STREET TREES**

1. and 2. [No change.]

3. Where neither the species of existing street trees fronting the site or the most prevalent species located on the same street appears on the Approved Street

Tree List, the City Manager shall designate the species of trees to be used which, is in keeping with the surrounding area.

4. through 10. [No change.]

E. through F. [No change.]

#### G. STREET FURNITURE

1. and 2. [No change.]

3. Awnings and Canopies.

Awnings and canopies made of plastic, canvas material or any other material permitted by this Division and approved by the City Engineer, and the City Manager may be permitted to encroach on the street right-of-way to provide shade or sun protection for retail exhibit areas (see Appendix B).

#### H. SIDEWALK CAFES

Sidewalk cafes may be permitted throughout the Planned District except in Zone 5, as regulated by Section 103.0105 and Land Development Code Section 141.0621.

I. and J. [No change.]

Section 8. 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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