

(O-98-60)

ORDINANCE NUMBER O- **18486** (NEW SERIES)

ADOPTED ON **APR 07 1998**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 103.0402, 103.0403, 103.0404, 103.0405, 103.0407, 103.0408, 103.0409, 103.0410, 103.0411, 103.0412, 103.0414, 103.0415, 103.0416, ALL RELATING TO GASLAMP QUARTER PLANNED DISTRICT.

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

Section 1. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0402, to read as follows:

SEC. 103.0402 Administration

A. PRESIDENT

The President of Centre City Development Corporation (the "President"), or a designated representative of the President, as the designee of the City Council, shall administer the Gaslamp Quarter Planned District in accordance with the provisions of this division.

B. POWERS AND DUTIES

It is the duty of the President to administer the regulations and procedures contained within this division in the manner prescribed herein for both public and private developments; to recommend to the Planning Commission and the Centre City Development Corporation Board of Directors (the "Board of Directors") any changes to the regulations, provided such changes are necessary for the proper execution of the

adopted plan, and to adopt rules of procedure to supplement those contained within this Division. The President shall utilize architectural criteria and design standards adopted by the City Council and restrictions on use specified in these regulations in evaluating the appropriateness of any development for which a permit is applied under this Division. The President may approve, modify, or disapprove any applications for a permit, based upon the conditions of compliance or noncompliance with the adopted regulations and approved criteria and standards.

C. APPLICABLE REGULATIONS

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 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 4, of the San Diego Municipal Code is amended by amending section 103.0403, to read as follows:

SEC. 103.0403 Procedures for Special Permit Application and Review

A. [No change.]

B. CONTENT

The application shall include the following:

1. and 2. [No change.]

3. An application for a special permit shall be obtained from the President.

An application for a special permit will be accepted upon payment of a fee as required by Land Development Code Chapter 11, Article 2, Division 2 (Fees and Deposits).

4. Any other information deemed necessary by the President to judge compliance with the regulations contained in this Division and other applicable laws and regulations.

C. DETERMINATION

Upon submittal by the applicant of basic concept drawings and review of those basic concept drawings, the President may approve, modify or disapprove any application for a special permit. In approving the special permit, the President may

impose reasonable conditions to ensure compliance with these regulations. The President shall not approve an application for a special permit except upon determining that the building, structure or improvement and use for which the special permit was applied (1) is consistent with the Uniform Building Code and Fire Code and the regulations in this division, and (2) will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood or to the general welfare of the city and is not detrimental to implementation of the Gaslamp Quarter Redevelopment Plan. Action by the President shall include a statement that the President finds that the building, structure, or improvement or use for which the special permit was applied does or does not conform to the regulations in this division. In the event the President does not approve an application for a special permit, the specific facts on which the determination is based shall be included in the written decision as provided for in Section 103.0403(D) following.

The Building Official of the City of San Diego may approve special permit applications of an emergency nature without prior approval of the President, if such actions are to rehabilitate any condition which renders a building unsafe or to demolish the structure for the same reasons. All such actions by the Building Official shall be immediately reported to the President.

D. NOTIFICATION

Within 60 days after the submission of a complete application to the President, the President shall as required in Section 103.0403.C., send his or her decision in writing to

the applicant and, if legally required, to the Building Official and City Engineer, except when the applicant requests or agrees to an extension of time regarding this notification.

E. ISSUANCES

Upon approval and issuance of the special permit by the President, the applicant will be directed to appropriate City of San Diego department(s) to obtain any additional City permits and licenses necessary for the applicant to complete his or her project. These additional permits and licenses shall conform to all of the other regulations and ordinances of the City.

F. CONDITIONS

Any special permit granted by the President to use the property or for work to be performed as provided for in Section 103.0403, shall be conditioned upon the privileges granted being utilized within 18 months after the date of issuances of the special permit. Failure to commence the use or start work within this 18-month period will automatically void the special permit unless an extension of time has been granted by the President as set forth in Section 103.0403(H). Construction must actually be commenced within the stated period and must be diligently pursued to completion. If the President finds that the use has not commenced or there has been no construction substantial in character since the date of the issuance of the special permit, or that there has been during the course of development, a lapse of work for 6 months, the special permit shall become void.

G. EXTENSION OF TIME TO A VALID SPECIAL PERMIT

The President may grant an extension of time up to 3 years on the time limit contained in a currently valid special permit. To initiate a request for extension of time,

the property owner or owners shall file a written application with the President in the office of the Centre City Development Corporation ("CCDC") prior to the expiration of the special permit. The President may grant the extension of time if he or she finds from the evidence submitted that there has been no material change of circumstances since the special permit was originally granted. Land Development Code Section 129.0219 shall also apply for extension of building permits issued in conjunction with this special permit.

H. REVOCATION

The President may at any time revoke a special permit issued under this Section. Prior to revocation, the holder of the special permit shall be given a hearing after 10 calendar days' notice. After such a hearing, the President may revoke a permit upon determining:

1. through 4. [No change.]

Section 3. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0404, to read as follows:

SEC. 103.0404 Appeals to the Planning Commission

A. FILING

If the President denies or conditionally approves an application, the applicant may appeal from that decision to the City Planning Commission 10 working days after the decision is filed with the CCDC. Appeals shall be noticed and heard in accordance with Land Development Code Chapter 11, Article 2, Division 5 (Decision Process). The appeal shall be in writing and filed in duplicate with CCDC upon forms provided by the

CCDC. If an appeal is filed within the time specified, it automatically stays proceedings in the matter until a determination is made by the Planning Commission.

B. PUBLIC HEARING

Upon the filing of the appeal, the CCDC shall set the matter for public hearing before the Planning Commission giving the same notice as provided in Land Development Code Chapter 11, Article 2, Division 3 (Notice). The President shall transmit to the Planning Commission a copy of his or her decision and findings, and all other evidence, maps, papers and exhibits upon which the President made the decision.

C. DECISION OF THE PLANNING COMMISSION

Upon the hearing of an appeal, the Planning Commission may by resolution, affirm, reverse, or modify, in whole or in part, any determination of the President. The Planning Commission decision is final.

Section 4. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0405, to read as follows:

SEC. 103.0405 Conditional Use Permits

A. Notwithstanding the provisions of Section 103.0105, the President is the decision maker for the purpose of granting Conditional Use Permits within the boundaries of the Gaslamp Quarter Planned District delineated in Section 103.0401.

B. 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).

Section 5. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0407, to read as follows:

SEC. 103.0407 General Design Regulations

[No change in first paragraph.]

A. BUILDING HEIGHT REGULATIONS

1. [No change.]

2. MAXIMUM BUILDING HEIGHT (75-FOOT HEIGHT LIMIT)

At the discretion of the President, buildings in the Gaslamp Quarter may achieve a maximum height of up to 75 feet with review and comment by the Historical Resources Board prior to action by the President. Buildings exceeding 60 feet in height shall be in general accord with the architectural and historic character reflected in the Gaslamp Quarter for streetwall definition, site relationships, horizontal and vertical building form as well as architectural detail and fabric.

a. through g. [No change.]

B. STREET WALL CRITERIA AND SITE RELATIONSHIPS

1. [No change.]

2. STREET WALL REQUIREMENTS. [No change.]

a. through c. [No change.]

d. Awnings and canopies may project over the sidewalk as follows:

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

(3) One entry way canopy per building may be permitted to project a maximum of 8 feet beyond the property line to establish the main entry, subject

to approval by the President and consistent with all other codes and ordinances.

e. and f. [No change.]

C. HORIZONTAL BUILDING FORM CRITERIA

[No change in first paragraph.]

1. [No change.]

2. FLOOR-TO-FLOOR HEIGHTS.

a. The exterior facades of new construction and infill buildings must respect the floor-to-floor heights typical of adjoining structures. A lesser floor height may be permitted subject to approval of the President to allow for mezzanines and design expression for other contemporary uses.

b. [No change.]

D. [No change.]

E. ARCHITECTURAL FABRIC AND MATERIALS

[No change in first paragraph.]

1. through 4. [No change.]

5. Natural masonry colors and earth tones should dominate. Accent color schemes are encouraged subject to review by the President. Color samples should be provided by the applicant.

F. through I. [No change.]

Section 6. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0408, to read as follows:

SEC. 103.0408 Permitted Uses

[No change in first paragraph.]

A. Retailing of consumer convenience goods and dispensing of consumer services from the following establishments:

1. through 6. [No change.]

7. General Bookstore. A general bookstore is an establishment engaged in the buying, selling or trading of new and/or used books and periodicals of general interest. A general bookstore does not include an "Adult Bookstore" as described in Land Development Code Section 141.0601(a).

8. through 17. [No change.]

18. Gift and novelty shops. Excluding any establishment listed and described as an Adult Entertainment Establishment in Land Development Code Section 141.0601(a).

19. through 26. [No change.]

27. Nightclubs. Excluding an "Adult Cabaret" as described in Land Development Code Section 141.0601(a).

28. through 32. [No change.]

33. Photographic studios. Excluding any establishment listed and described as an Adult Entertainment Establishment in Land Development Code Section 141.0601(a).

This provision does not apply to any school of art which is operated by any person or entity which meets the requirements established in the Education Code of the State of California for the issuance of diplomas and is authorized under the Education

Code to issue diplomas.

34. through 41. [No change.]

42. Stationers and card shops. Excluding any establishment listed and described as an Adult Entertainment Establishment in Land Development Code Section 141.0601(a).

43. Studios for art, dance and music. Excluding any establishment listed and described as an Adult Entertainment Establishment in Land Development Code Section 141.0601(a).

This provision does not apply to any school of art which is operated by any person or entity which meets the requirements established in the Education Code of the State of California for the issuance of diplomas and is authorized under the Education Code to issue diplomas.

44. through 46. [No change.]

47. Theaters. Excluding an establishment listed and described as an Adult Entertainment Establishment in Land Development Code Section 141.0601(a).

48. through 52. [No change.]

B. [No change.]

C. [No change.]

D. Other uses typically conducted within the street right-of-way during the 1880-1910 era; such as: flower sales, musicians, newsstands; shoeshine stands and sales of merchandise typically sold by street vendors during the 1880-1910 era, when such uses are in conjunction with the use of adjacent private property and have been authorized by

an encroachment permit issued by the City Engineer pursuant to Sections 62.0620, 62.0630 and 103.0408.E..

E. Specialized uses in the street right-of-way which are consistent with the 1880-1910 era may be considered on all streets with the exception of Broadway. Proposed uses must meet safety and design criteria set forth in the Gaslamp Quarter Urban Design and Development Manual as adopted by resolution by the City Council. Prior to the use of street right-of-way for a specialized use, an encroachment permit shall have been obtained from the City Engineer, pursuant to Sections 62.0620, 62.0630 and 103.0408.E. A clear separation of the encroachment area and the remainder of the sidewalk shall be provided. A special use shall be conducted in conjunction with the use of the adjacent private property.

In addition to special uses, an encroachment permit may be granted to provide for:

1. through 3. [No change.]

[No change in the balance of subsection E.]

F. [No change in first paragraph.]

1. [No change.]
2. Alcoholic Beverage Sale Permit Application

Application for an Alcoholic Beverage Sale Permit must be made by the tenant of the property affected and prior to any application to the Alcoholic Beverage Control Board. Application shall be filed with the City Manager and shall state fully the circumstances and conditions relied upon as grounds for the application, and shall be accompanied by adequate plans, a legal description of the property involved and a

detailed description of the proposed use. Prior to the filing of an application, the applicant shall file a fee equal to the cost of processing said application. Fees and deposits will be adjusted periodically by resolution of the City Council to ensure full cost recovery for services. A list of current fees and deposits is on file in the office of the City Clerk.

3. Alcoholic Beverage Sale Permit Approval

a. Criteria for consumption of Alcoholic Beverages "on the premises of the sale": In addition to the criteria in Section 103.0403 D., the following criteria shall be used by the President in making his or her determination regarding the issuance of an Alcoholic Beverage Sale Permit for the sale of alcoholic beverages within the Gaslamp Quarter:

(1) through (4) [No change.]

b. Criteria for consumption of alcoholic beverages "off the premises of sale": In addition to the criteria in Section 103.0403 C., the following criteria are used by the President in making his or her determination regarding the issuance of an Alcoholic Beverage Sale Permit for the sale of alcoholic beverages within the Gaslamp Quarter:

(1) through (10) [No change.]

c. Decision. The President may grant an Alcoholic Beverage Sale Permit containing each of the above conditions for a use which includes the sale of alcoholic beverages within the Gaslamp Quarter. The President may also grant, with Police Department comment, an Alcoholic Beverage Sale Permit with additional conditions as follows:

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

The President may grant such Permit, if, after considering the facts presented in the application and at the hearing, concludes that the criteria set forth above and in Section 103.0403 C. have been met. In granting this Permit, the President may impose reasonable conditions to ensure compliance with the provisions of this section.

(4) Revocation of the Alcoholic Beverage Sale Permit.

The City Manager may revoke an Alcoholic Beverage Sale Permit if conditions as set forth in the Permit are not being met.

G. [No change.]

H. [No change.]

Section 7. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0409, to read as follows:

SEC. 103.0409 Off-Street Parking, Construction, Maintenance and Operation Regulations.

No off-street surface parking shall be visible from the street frontage. Such parking shall be restricted to the rear 50 percent of any parcel along Fifth Avenue. Such parking shall be in conformance with Land Development Code Section 142.0560 (Development and Design Regulations for Parking Facilities). Such parking shall also be in substantial conformance with the Architectural Controls as specified in this division. Substantial conformance shall be determined by the President; said determination shall be subject to appeal in the manner set forth in Section 103.0404.

Section 8. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0410, to read as follows:

SEC. 103.0410 Signs

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

A. REGULATIONS

The structure, content, lettering, location, size, number, illumination, color, projection and other characteristics of all signs in the Gaslamp Quarter District is subject to the following regulations:

1. through 9. [No change.]

10. Historical Signs: All requests for signs not conforming to that permitted in the above paragraphs shall be accompanied by documentary evidence that signs of such size and advertising such a business were in use in the area prior to 1910. Signs must conform in size, shape, design, material, coloring, lighting and location to the Pre-1910 period. Documentary evidence must be approved by the Historical Resources Board.

B. COMPLIANCE

Signs in existence on the effective date of Ordinance No. O-11870 which do not conform to the provisions of the Gaslamp Quarter Planned District but which were

constructed, erected, affixed, or maintained in compliance with all previous regulations shall be regarded as previously conforming signs. Previously conforming signs shall be removed no later than 7 years from the date they became previously conforming. For previously conforming signs in existence on or before August 13, 1976, the effective date for removal of these signs is August 13, 1983. If the event signs become previously conforming by amendments to the sign regulations of the District they shall be removed no later than 7 years from the date they became previously conforming.

Previously conforming signs or parts thereof, including sign supports, may be declared "Public Nuisances" and then shall be abated as prescribed by law.

Section 9. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0411, to read as follows:

SEC. 103.0411 Public Facilities, Structures and Area

All open spaces, streets, sidewalks, street furniture, street signs, lighting installations, and any incidental structures or monuments, shall conform to the intent of this division, which is to re-create the history of the character of the Gaslamp Quarter in general accord with the period between 1880 to 1910 and shall be subject to the same regulations, conditions and standards established herein.

Section 10. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0412, to read as follows:

SEC. 103.0412 Regulations for Historic and Architecturally Significant Structures

A. ALTERATIONS

Land Development Code Chapter 12, Article 7, Division 1 (Previously

Conforming Premises and Uses) does not apply to historic or architecturally significant buildings, structures, or sites as designated by the Historical Resources Board.

B. EXCEPTIONS

The President may grant an exception to any regulation within this division including permitted uses, when the exception is necessary to permit the preservation or restoration of a historic or architecturally significant building, structure or site. The President may not grant exceptions to building code or fire code requirements. An exception shall be subject to the following conditions:

1. The subject building, structure or site must be identified by the Historical Resources Board as being historic or architecturally significant;
2. The proposed exception shall be referred to CCDC and the Historical Resources Board for a report and recommendation;
3. The President, in granting an exception, shall make a finding that the exception is necessary to permit the preservation or restoration of a historic or architecturally significant building, structure or site; that strict application of the provisions contained in this division would result in economic or other practical difficulties in securing the preservation or restoration of a historic or architecturally significant building, structure or site, and that the granting of an exception will not be injurious to the community or detrimental to the public welfare; and
4. In making a decision, the President shall make a written finding which shall specify facts relied upon in rendering his or her decision. A copy of this written finding, together with all evidence presented to the President, including plans required

elsewhere in this division shall be filed along with the President's decision in the office of the City Clerk and the CCDC. The written finding and decision shall be mailed to the applicant and is subject to appeal as provided in Section 103.0404.

Section 11. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0414, to read as follows:

SEC. 103.0414 Removal of Damaged Historic Structures

If the event any building or structure of architectural or historic value or interest is damaged by earthquake, fire, or act of God to such an extent that in the opinion of the President and the Building Official it cannot reasonably be repaired and restored, the same may be removed upon issuance of a permit for its removal.

Section 12. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0415, to read as follows:

SEC. 103.0415 Previously Conforming Uses

A. TERMINATION

The existence of certain previously conforming uses such as card rooms and arcades has attracted undesirable and criminal behavior. This criminal activity makes it increasingly difficult for other shops and businesses in the Gaslamp District to prosper and threatens the safety of visitors and residents of the Gaslamp Quarter. The following previously conforming uses shall be discontinued:

1. Card rooms. The use of property for a card room shall be terminated within one year from the effective date of the ordinance adopting the Gaslamp Quarter Planned District whereupon the City Manager shall immediately notify the property

owner and/or Business Operator of such termination.

2. Arcades. The use of property for an arcade shall be terminated within one year from the effective date of Ordinance No. O-11870 adopting the Gaslamp Quarter Planned District whereupon the City Manager shall immediately notify the property owner and/or Business Operator of such termination.

B. IN GENERAL

Except for card rooms and arcades, previously conforming uses shall be governed by Land Development Code Chapter 12, Article 7, Division 1 (Previously Conforming Premises and Uses) and the provisions of the Gaslamp Quarter Redevelopment Plan.

Section 13. That Chapter X, Article 3, Division 4, of the San Diego Municipal Code is amended by amending section 103.0416, to read as follows:

SEC. 103.0416 Minimum Maintenance of Structure and Facilities

A. [No change.]

B. ENFORCEMENT

The City Manager is hereby designated as the officer to exercise the powers assigned by this division in relation to blighted buildings in the Gaslamp Quarter. The City Manager is authorized and directed to adopt, promulgate, amend, and administrate rules consistent with the division and necessary to carry out of the duties of the City Manager hereunder.

C. RIGHT OF ENTRY

Whenever necessary to make an inspection to enforce any of the provisions of this division or whenever the City Manager has reasonable cause to believe that there exists in

any building or upon any premises any condition which makes such building or premises physically blighted as defined in the adopted Gaslamp Quarter Redevelopment Plan and Section 103.0416 C. and upon presentation of proper credentials, the City Manager may, with the consent of the occupant or with the consent of the owner or person in charge of an unoccupied building or pursuant to a lawfully issued warrant, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the City Manager by this division.

No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand pursuant to a lawful warrant is made, to promptly permit entry therein by the City Manager for the purpose of inspection and examination pursuant to this division.

In order to enforce this division, the City Manager shall investigate all buildings on a regular basis.

D. [No change.]

E. DETERMINATION OF VIOLATION OF MAINTENANCE

REQUIREMENTS

[No change in first paragraph.]

1. Commencement of Proceedings. Whenever the City Manager has inspected or caused to be inspected any building, structure, premises, land or portion thereof, and determines that it is a blighted building used or maintained in violation of this division, he or she shall commence proceedings to cause the correction of each violation.

2. Notice and Order. The City Manager shall issue a written notice and order directed to the owner of the building with a copy to the Building Official. The notice and order shall contain:

a. [No change.]

b. A statement that the City Manager has found the building to be in violation of this division with a brief and concise description of the condition found to be in violation.

c. A statement of the corrective action required to be taken. If the City Manager has determined that corrective work is required, the order shall require that all required permits be secured and the work physically commenced within such time and be completed within such time as the City Manager shall determine reasonable under the circumstances;

d. A statement informing the recipient that he must comply with required permit procedures for buildings, including requirements of this division.

e. Any blighted building or structure not brought into compliance with the order of the City Manager or decision of the Planning Commission may be abated in accordance with the provisions of the Gaslamp Quarter Redevelopment Plan or other civil or criminal remedies provided by the San Diego Municipal Code may be instituted.

F. ABATEMENT

In addition to or as an alternative to any other judicial or administrative remedy provided in this division or by law or other ordinance, the City Manager may abate any of

the properties on which any of the foregoing conditions exist under the provisions of the Gaslamp Quarter Redevelopment Plan as presently adopted or herein after amended.

Section 14. This ordinance shall take effect and be in force on the date the Coastal Commission unconditionally certifies as a local coastal program amendment the provisions of the Land Development Code subject to Coastal Commission jurisdiction adopted by the City Council on December 9, 1997, by Ordinance No. O-18451.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:cdk
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