

(O-98-67)

ORDINANCE NUMBER O- **18491** (NEW SERIES)

ADOPTED ON **APR 07 1998**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 3, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 103.0202, 103.0203, 103.0204, 103.0205, 103.0206, 103.0207, 103.0208, 103.0209, 103.0210, 103.0211, ALL RELATING TO OLD TOWN SAN DIEGO PLANNED DISTRICT.

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

Section 1. That Chapter X, Article 3, Division 2, of the San Diego Municipal Code is amended by amending section 103.0202, to read as follows:

**SEC. 103.0202 Administrative Regulations**

The administrative regulations as specified in this section apply in the Old Town San Diego Planned District.

**A. GENERAL PROVISIONS**

1. Unless otherwise specified in this Division, the following provisions of the Land Development Code apply:

Chapter 11 (Land Development Procedures);

Chapter 12 (Land Development Reviews) except Article 6, Division 6 (Planned Development Permit Procedures);

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 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 3 (Supplemental Development Regulations) except Division 4 (Planned Development Permit 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.

2. Any permit or license issued or any work within the Old Town San Diego Planned District, including erection of any new building or structure, or repainting of exterior surfaces, remodeling or repair, alteration, addition to or demolition of any existing building or structure, or relocation of any structure into the Planned District, regardless of whether it requires a permit, may be reviewed by the City Manager and the Old Town San Diego Planned District Design Review Board.

3. This section does not supersede, change or amend, nor in any way alter the manner, method or requirements of the review procedures for any historical site

designated by the Historical Resources Board.

B. OLD TOWN SAN DIEGO PLANNED DISTRICT DESIGN REVIEW  
BOARD

1. Appointments, Terms and Procedures

a. through d. [No change.]

e. The City Manager shall serve as Secretary of the Board as an ex-officio member. The Secretary shall not be entitled to vote.

f. and g. [No change.]

2. Powers and Duties

a. It is the duty of the Board to provide advice on architectural design for development projects in compliance with the regulations and procedures contained within this Division in the manner prescribed herein; to recommend to the Planning Commission any changes to the development regulations contained in this Division, 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.

b. The Board may recommend that the City Manager approve, modify, or disapprove any application for a permit based upon its condition of compliance or noncompliance with the adopted regulations and approved standards and criteria.

c. [No change.]

C. PROJECT REVIEW ADMINISTRATION

1. Application

Application for a Planned District Permit shall be made in accordance with Land Development Code Section 112.0102, prior to commencement of any work in the erection of any new building or structure, or repainting of exterior surfaces, remodeling or repair, alteration, addition to or demolition of any existing building or structure within the Planned District or any building which is relocated into the Planned District. The application shall include the following:

a. A deposit as indicated on the current fee schedule maintained in the office of the City Clerk shall be paid when application is made for any Planned District Permit.

b. All submittals shall illustrate the following:

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

(5) Any other information deemed necessary by the City Manager or Board to evaluate the project for compliance with the regulations contained herein and other applicable laws and regulations.

## 2. Decision Process

a. An application for a planned district permit for signs, reroofing, repainting of exterior surfaces and any addition to or alteration of any structure which is minor in scope may be approved or denied, in accordance with Process One, by the City Manager without being referred to the Board for recommendation. Notwithstanding the foregoing provision, the City Manager may in his discretion refer such application to the Board for their recommendation prior to taking action on the application. (Minor in scope shall constitute an addition or alteration of twenty percent (20%) or less and conforms to

all applicable regulations.)

b. Other than provided by Section 103.0202(C) (2) (a), an application for a Planned District Permit shall first be referred to the Board for their review and recommendation. The application may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three, after receiving the Board's recommendation or comments. The decision of the Hearing Officer may be appealed to the Planning Commission in accordance with Land Development Code Section 112.0506.

c. Within sixty (60) calendar days after the submission of a complete Building Permit application for development of a site for which a Planned District Permit has been issued which shall include completed environmental review, the City Manager shall issue a decision in writing, except when the applicant requests and receives approval from the City Manager or an extension of time.

d. Issuance. A Building Permit may be issued after the City Manager's approval. The City Manager shall conduct a site inspection before issuance of the certificate of occupancy or the final inspection.

#### D. PERMIT TIME LIMITS

1. No building permits shall be issued for any projects for which a building permit is not on file within 180 days from the effective date of Ordinance No. O-16906 N.S., for projects which received an approval from the Old Town San Diego Planned District Review Board, or City Council on appeal prior to the effective date of Ordinance No. O-16906 N.S.

2. A valid Planned District Permit shall expire and become void thirty-six (36) months after the "Date of Final Action of the Permit", if the permit is not utilized in the manner set forth in Land Development Code Section 126.0108 and Section 126.0109.

3. The expiration date of a valid Planned District Permit may be extended in the manner provided within Land Development Code Section 126.0111. To initiate the request for an extension of time, the property owner or owners shall file a written request in accordance with Land Development Code Section 126.0111. The extension of time may be granted if both of the following requirements are met:

a. and b. [No change.]

The City Manager shall notify the Board and the Old Town Community Planning Committee of any extension of time requests. Any request that may be affected by changed conditions, shall be brought to the attention of the Board for recommendation.

#### E. PREVIOUSLY CONFORMING USES

The determination and regulation of previously conforming uses within the District shall be consistent with Land Development Code, Chapter 12, Article 7, Division 1 (Previously Conforming Premises and Uses).

#### F. DEFINITIONS

As used in this Division, "Standards and Criteria" means the Old San Diego Architectural and Site Development Standards adopted by the City Council on file in the office of the City Clerk as Document No. 742763.

Section 2. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0203, to read as follows:

**SEC. 103.0203 Special Permits**

The following types of permits are unique in their complexity and therefore require special review by the City Manager and the Board. The 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.

**A. PUBLIC FACILITIES, STRUCTURES AND AREAS**

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 designed to recreate the history of the character of Old Town San Diego in general accord with the period prior to 1871 and shall be subject to the same regulations, conditions and standards established herein, and shall be reviewed by the Board for their recommendation.

**B. HISTORIC AND ARCHITECTURALLY SIGNIFICANT STRUCTURES**

The provisions contained herein are intended to permit and encourage in Old Town San Diego the preservation and restoration of buildings, structures and sites having historic, archaeological, or architectural value for the benefit of the people of San Diego, the State of California and all those interested in the record of the progress of western civilization. Such structures shall be designated historical resources in the City of San Diego.

## 1. Relocation of Historic Buildings

Designated historical structures of the City of San Diego may be relocated into the Old Town San Diego area. Upon receipt of an application for permit to relocate such a building, the City Manager shall refer the application to the Historical Resources Board for review as provided in Section 103.0202. Any building approved for relocation into the District by the Historical Resources Board shall be referred to the Board for review.

## 2. Exceptions

a. The Hearing Officer may grant an exception to any development regulation within this Division including permitted uses, and parking regulations only when such exception is necessary to permit the preservation or restoration of a designated historic or architecturally significant building, structure or site. Such exception is subject to the following conditions:

(1) The subject building, structure or site must be a designated historical resource.

(2) The proposed exception shall be referred to the Historical Resources Board for a report and recommendation.

b. In approving or conditionally approving an exception, the Hearing Officer shall find that the exception is necessary to permit the preservation or restoration of a designated historical resource; that strict application of the provisions contained within this Division would result in economic or other practical difficulties in securing the preservation or restoration of a designated historical resource; and that the



granting of an exception will not be injurious to the community or detrimental to the public welfare; and, the Historical Resources Board and the Old Town San Diego Design Review Board have made consistent recommendations for granting the exception.

c. In approving or conditionally approving any exception the Hearing Officer shall make a written finding specifying facts relied upon in rendering its decision. A copy of this written finding, together with all evidence presented, including plans required elsewhere in this Division shall be filed in the Office of the City Clerk.

### 3. Historical Resources Board Review

Any application to remodel, restore, alter or move a designated historical resource shall first be referred to the Historical Resources Board for review pursuant to Land Development Code Section 143.0250.

### 4. Removal of Damaged Historic Structures

If any designated historical resource shall be damaged by earthquake, fire or act of God, and a permit for demolition or removal of the property is applied for, the permit shall be referred to the Historical Resources Board pursuant to Land Development Code Section 143.0250 unless an emergency condition exists in which a specified action must be taken based on factual circumstances.

## C. ARCHAEOLOGICAL AND HISTORICAL SITE PRESERVATION

[No change in first paragraph.]

The Historical Resources Board shall review the application and provide information to the Hearing Officer on the site's historical or archaeological significance and methods to preserve or commemorate the site. The exemptions for historic buildings

shall be also applicable, where appropriate, to these projects.

D. CONDITIONAL USE PERMITS, VARIANCES AND OTHER PERMITS

Any use allowable under a Conditional Use Permit as provided in Section 103.0105 shall be subject to a special permit. The development standards shall be those specified in this division, the "Standards and Criteria," and the regulations in Land Development Code Chapter 14, Article 1 (Separately Regulated Use Regulations).

E. SIDEWALK CAFES AND PUSHCARTS

A special permit is required for these activities in accordance with Section 103.0105 and the provisions of this Division.

F. [No change.]

Section 3. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0204, to read as follows:

**SEC: 103.0204 Permitted Uses**

A. and B. [No change.]

C. CLASSIFICATION OF USE

Any other use which the Planning Commission may find, in accordance with Process Four, to be similar in character to the uses, including accessory uses, enumerated in this Section, and consistent with the purpose and intent of the Old Town San Diego Planned District. The adopted resolution embodying such finding shall be filed in the Office of the City Clerk.

Section 4. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0205, to read as follows:

## SEC. 103.0205 Property Development Regulations

### A. LOT AREA

1. No building or portion thereof shall be erected, constructed, established, altered, enlarged, nor shall any premises be used unless the lot has a minimum area of 3,000 square feet. An exception shall be for any lot which qualifies under the definition of a lot as set forth in Land Development Code Section 113.0103 and which does not comply with the minimum lot area specified herein may nevertheless be used as permitted and other regulated by the provisions of this Division.

2. [No change.]

B. through E. [No change.]

### F. YARD AND SETBACKS

[No change in chart in first paragraph.]

(a) Street Yard Defined: The street yard is that area of a lot which lies between the property line abutting a dedicated public street and the street wall line. The street wall line is drawn along the first building wall that parallels the street frontage. The street yard area is calculated by multiplying the street frontage times the linear foot requirement specified herein (see Figure 1).

(b) through (e) [No change.]

### G. ARCHAEOLOGICAL AND HISTORICAL SITE REVIEW AND DESIGNATION

Archaeological review by an archaeologist certified by the Society of Professional Archaeologists or equivalent acceptable to the City Manager is required for any project

which disturbs the ground.

For any site that is identified as having archaeological or recorded evidence of a preexisting historical structure, settlement or event, application shall be made to the Historical Resources Board for designation and to the Board for determination on an acceptable manner of commemorating the historical value of the site. This might include a reconstruction if adequate plans remain, a partial reconstruction or monument.

#### H. HILLSIDES/BLUFFS

No building shall be located on an existing grade 30 percent or greater. Hillsides 30 percent or greater in slope shall not be disturbed by construction nor obstructed by building, within 15 feet of the toe of the slope, of more than 20 feet in height (as shown in Figure 2). Development on slopes between 25 and 30 percent may be permitted consistent with Land Development Code Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

Section 5. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0206, to read as follows:

#### **SEC. 103.0206 Landscaping**

A. Land Development Code Chapter 14, Article 2, Division 4 (Landscape Regulations) apply with the following exception:

1. and 2. [No change.]

B. Parking: All surface parking areas, both the perimeter and the interior, shall be landscaped consistent with Land Development Code Chapter 14, Article 2, Division 4 (Landscape Regulations).

C. [No change.]

D. [No change.]

E. City Manager approval must be obtained for removal of all trees over 50 feet tall and/or over 50 years old.

Section 6. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0207, to read as follows:

**SEC. 103.0207 Parking**

Off-street parking spaces and facilities required in any area shall be provided before the use requiring such parking facilities commences to operate and shall be maintained in good condition so long as the use for which it is provided exists. . Parking shall be provided in accordance with Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations).

**A. PARKING REQUIREMENT EXEMPTIONS**

1. and 2. [No change.]

**B. EXISTING PARKING [No change.]**

**C. REHABILITATION AND ADDITIONS**

Whenever an existing building is rehabilitated or enlarged, there shall be provided concurrently with such enlargement a minimum of twice the number of parking spaces as would be necessitated by the magnitude of said enlargement, provided, however, the total of the existing parking spaces and those required by this paragraph need not exceed the number of parking spaces required for the enlarged development computed at the rate required by Land Development Code Chapter 14, Article 2, Division 5 (Parking

Regulations). Tandem parking spaces may be permitted to satisfy this requirement.

D. ACCESS [No change.]

E. PARKING IMPROVEMENT AREA OR IN-LIEU FEES

1. If a parking improvement area is formed in accordance with Municipal Code Chapter VI, Article 1, Division 18, the number of off-street parking spaces required for properties within the parking and business improvement area shall decrease commensurate with the project's participation in the improvement program.

2. [No change.]

Section 7. at Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0208, to read as follows:

**SEC. 103.0208 Specific Architectural Controls**

[No change in first paragraph.]

A. [No change.]

B. FORMS, MATERIALS, TEXTURES AND COLORS

[No change in first paragraph.]

Any change to a structures form, material, texture or color shall be reviewed by the City Manager and/or the Board.

C. [No change.]

D. FENCES AND WALLS

1. Design

Fences, as defined in Land Development Code Section 113.0103 shall be designed in accordance with the "Standards and Criteria" and must be reviewed by the

City Manager. Fence materials shall be wood, adobe, masonry, or forged iron.

2. [No change.]

E. [No change.]

Section 8. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0209, to read as follows:

**SEC. 103.0209 Signs**

A. [No change.]

B. SIZES

1. and 2. [No change.]

3. Historical Signs

All requests for signs not conforming to these regulations shall be accompanied by documentary evidence that signs of such size and advertising such business were in use prior to 1871. Signs must conform in size, shape and design, material, coloring, lighting and location to the pre-1871 period. Documentary evidence must be approved by the City of San Diego Historical Resources Board.

4. Sign Program

On those properties which have street frontage exceeding 150 linear feet, a comprehensive sign program shall be submitted by the property owner in accordance with Land Development Code Chapter 11, Article 2 (Required Steps in Processing). Comprehensive Sign programs may be approved, conditionally approved or denied by a Hearing Officer in accordance with Process Three, after receiving comments and recommendations from the Board. The Hearing Officer's decision may be appealed in

accordance with Land Development Code Section 112.0506. Size, design and location shall be considered to assure compatibility with the size and location of the development structures and establishments. In no case shall any one establishment be denied an identification sign of the minimum sizes identified in Paragraph 1 of this section, however, larger signs may be permitted if they are in accord with the purpose and intent of this District and the "Standards and Criteria."

C. PREVIOUSLY CONFORMING

[No change.]

D. EXTENSION OF TIME

The owner of any sign may apply for an extension of time in accordance with Land Development Code Chapter 12, Article 9, Division 8 (Sign Permit Procedures). Section 9. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0210, to read as follows:

**SEC. 103.0210 Streetscape/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 finding of consistency with this Division.

A. DRIVEWAYS AND CURB CUTS

1. Access requirements shall be consistent with Section 103.0207. D of this Division.



2. through 4. [No change.]

B. through F. [No change.]

Section 10. That Chapter X, Article 3, Division 21, of the San Diego Municipal Code is amended by amending section 103.0211, to read as follows:

**SEC. 103.0211 Special Regulations**

A. and B. [No change.]

C. ANTENNAS

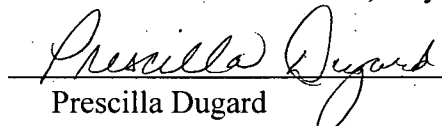
Only one exterior receiving antenna per building will be permitted. Any satellite antenna as described in Land Development Code Section 141.0405 shall be screened from view and shall be reviewed by the Board and approved by the Director. All manners of screening shall be consistent with the design standards as set forth in the "Standards and Criteria."

D. [No change.]

Section 11. 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

Deputy City Attorney

PD:cdk

03/05/98

Or.Dept:Dev.Svcs.

O-98-67